

EXECUTIVE MEMBER DECISION



REPORT OF: Executive Member for Finance and Governance

LEAD OFFICER: Director of Finance

DATE: 23rd September 2022

PORTFOLIOS AFFECTED: All

WARDS AFFECTED: All

KEY DECISION: N

TITLE OF REPORT: Teachers Pensions Indexation

1. PURPOSE

1.1 The purpose of this report is to seek agreement from the Executive Member for Finance and Governance to a matter associated with the indexation on Teachers' Pensions.

2. RECOMMENDATIONS

2.1 The Executive Member for Finance and Governance is recommended to agree that:-

- a) for Teachers who are eligible, to pay an additional £1 (and backdated as necessary) to trigger the indexation to the average salary calculation as set out in the report; and
- b) any costs arising from this matter are met by Schools budgets as appropriate.

3. BACKGROUND

3.1 Teachers who have pension benefits in the final salary scheme have their pension benefits assessed using an average salary calculation. The calculation uses the better of:-

- The average of the best consecutive three years re-valued salaries in the last 10 years of service (best three in 10); or
- The last recorded 12 months of pensionable service before retirement.

3.2 The 2010 Teachers' Pension Scheme Regulations state that the calculation method for the 'best three in 10' average salary only applies indexation (inflation proofing) if the salary rate changes. This leads to non-indexation of benefits during periods of a pay freeze and possible pension losses for TPS scheme members if the 'best three years in 10' calculation results in higher pension benefits.

3.3 This issue may only affect a small number of Teachers who meet all of the following criteria:-

- joined the Teachers' Pension Scheme before April 2015; **AND**
- are within 10 years of retirement; **AND**
- have had a 'pay freeze' at some point in the last 10 years of their pensionable service, eg received no increase or decrease to their full time equivalent pay at all in the 2021/22 academic year (An incremental rise/additional allowance/move to a promoted post may trigger a change in pay and therefore the pension will be revalued);
- would rely on the average salary calculation to provide higher benefits than their current salary at retirement.

3.4 The Education Trade Unions asked the Department for Education (DfE) to amend the regulations to resolve the indexation issue. The DfE response to this is set out in the letter attached. In essence, the DfE acknowledged the concerns and have engaged with Teachers Pension (via the Teachers Pensions Scheme Advisory Board (SAB) to obtain the necessary data to assess the implications of any change including the actuarial impact and cost to the Scheme.

4. RATIONALE

4.1 The development of the Council's Financial Strategy is fundamental to the delivery of a balanced and sustainable budget. It is acknowledged that to address the forecast funding deficit, the Council needs to take a transformational approach to the delivery of budget savings in addition to making general service cost reductions.

5. KEY ISSUES

Current Position

5.1 According to the most recent Teachers' Pension Bulletin from the DfE (June 2022), the DfE met with the SAB on 16th June 2022 and confirmed they were still working with TP and the Government Actuary's Department (GAD) to gather data to ascertain the number of members likely to be affected by the indexation issue. The DfE remains of the view that any change to the long-term policy on the operation of the average salary indexation will take place going forwards, and any change to the TP regulation is unlikely to take place until at least 2023.

5.2 In response to this, the SAB Union Representatives expressed their view that the TP regulations should be changed retrospectively to address the indexation issue. They asked the DfE to make a statement to SAB Members about the indexation issue so that it can be shared with all TPS stakeholders. The LGA will circulate the statement to Education contacts once it is available.

The Council's Position on this Matter

5.3 Given that the DfE and the SAB are considering this matter and pending a national approach to this, the Council's position to this point has been to take no action at this stage. However, there is a need for the Council to actively consider what options are possible on this matter and make a resolution as appropriate. To that end, the options for the Council are:-

i) pay all Teachers an additional £1 in 2021/22 to trigger the indexation (inflation proofing) to the average salary calculation.

This is not recommended. DfE do not believe that universally applying a pay adjustment is necessary or justified in accordance with the School Teachers Pay and Conditions Document (STPCD).

ii) for Teachers who are eligible and who are to retire on or before 31st August 2022, pay an additional £1 (and backdated to 1st September) to trigger the indexation to the average salary calculation; It should be noted that making payment of an additional £1 may have unintended consequences that could make a Teacher financially worse off, for example by:-

- placing the Teacher in a higher band for Pension Contributions
- placing the Teacher in a higher tax bracket (with the amount over the tax threshold taxed at a higher rate);
- affecting any entitlement to other benefits.

iii) take no action until the DfE confirms its position on this matter. The DfE may amend Teachers' Pension Regulations and may allow for this to be applied retrospectively. However, this is not known and it is unclear whether this would affect Teachers that have retired in the meantime;

5.4 Whilst on the face of it, the financial implications of amending Teachers' pay appears negligible, it is not possible to say what the financial implications of a change (either applied on a blanket basis or to individual Teachers) are hence the work being undertaken by the SAB with the GAD. Specifically, it is not clear how this would affect the Council's Employers Contribution rate nor whether the financial impact would be for the Council (or more specifically for Schools) to fund alone.

5.5 Also, the remuneration of Teachers is governed by the School Teachers' Pay and Conditions Document (STPCD). There are limited provisions in the document for additional payments. Recruitment and retention incentives could be applicable (but this excludes Headteachers, Deputy Headteachers and Assistant Headteachers) but hard to argue if such a payment is being made to a Teacher who is just about to retire. The point being to understand on what legitimate grounds the payment is being made (bearing in mind this may have been an intentional policy of the Government).

5.6 Whilst it is acknowledged that some local authorities (it is not clear how many and on what basis) have made adjustments to Teachers Pensions to trigger indexation, it is not universal. Fundamentally, it is a matter for the Council to determine. And by way of context, the number of Teachers retiring at 31st August 2022 is nine (this includes two Headteachers and one Assistant Headteacher) and there are c40 Teachers who could be affected by this matter.

5.7 Given the small number of Teachers likely to be affected by this matter, it seems appropriate for the Council to take a balanced approach, considering the impact on individual Teachers on a case-by-case basis. In view of this, it is recommended that Option (ii) above is implemented on the understanding that any costs arising from decisions to pay the additional £1 (including any employers pension costs) are borne by individual schools.

6. POLICY IMPLICATIONS

6.1 There are no policy implications arising directly from this report.

7. FINANCIAL IMPLICATIONS

7.1 As indicated in the report, it is not possible to say exactly what the financial implications the recommendation in this report are. Intuitively, given the nominal change proposed, it is not anticipated these will be significant. In any event, it is proposed that any school that decides to pay the additional £1 will bear the costs of this and any Employers Pension costs arising.

8. LEGAL IMPLICATIONS

8.1 The remuneration of Teachers is governed by School Teachers' Pay and Conditions Document (STPCD) and it will be for Schools to determine the basis on which any eligible Teachers are remunerated.

9. RESOURCE IMPLICATIONS

9.1 There are no other resources implications arising from the contents of this report.

10. EQUALITY AND HEALTH IMPLICATIONS

10.1 There are no equality and health implications arising from the contents of this report.

11. CONSULTATIONS

11.1 None arising from the contents of this report.

12. STATEMENT OF COMPLIANCE

12.1 None arising from the contents of this report.

Appendices

None

VERSION:	1
CONTACT OFFICER:	Dean Langton – Director of Finance
DATE:	August 2022
BACKGROUND PAPERS:	None