

Teachers' Pension Scheme Indexation Issue – Briefing Note for Schools

We are aware that a number of schools within the Bradford District have been written to by education trade unions in relation to the impact of the pay freeze in 2021/22 on teacher's pension benefits. This briefing note sets out the current situation and the Council's approach to this issue at this time for maintained schools where the Council is the employer.

What is the issue?

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 ten years of service (best three in ten) or,
- The last recorded 12 months of pensionable service before retirement.

The [2010 Teachers' Pension Scheme Regulations](#) state that the calculation method for the 'best three in ten' 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 ten' calculation results in higher pension benefits.

Please note this issue **does not** affect support staff in the Local Government Pension Scheme (LGPS).

Who will potentially be impacted?

This issue may only affect a small number of teachers or school leaders who meet all of the following criteria:

1. Joined the Teachers' Pension Scheme (TPS) before April 2015 **AND**
2. are within 10 years of retirement **AND**
3. have had a 'pay freeze' at some point in the last 10 years of their pensionable service e.g. 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 will trigger a change of pay and their pension will be revalued. NB a change of hours would not count)
4. would rely on the average salary calculation to provide higher benefits than their current salary at retirement.

What is the approach of the unions on this matter?

The unions have concerns about the potential negative impact on the pension benefits of any teacher or school leader subject to a pay freeze in 2021/22 and in a joint letter sent to LAs in November, requested that employers pay a recruitment and retention payment of £1 per teacher, to trigger the TPS indexation.

The teaching unions have also approached the DfE and asked them to amend the regulations to resolve the indexation issue. The unions are also of the opinion that if the DfE agree, this will not happen quickly, and their view is that any change will not be retrospective.

What is the DfE and Teachers' Pension (TP) position on this issue?

The DfE have responded to the education trade unions with [this letter](#) and have discussed a long term approach with the TP Scheme Advisory Board (SAB) on 10th February. The DfE have acknowledged the union's concerns and explained that they are engaging with TP to get the necessary data to identify which teachers may be impacted. Any potential policy change needs to be assessed against the actuarial impact and cost to the scheme. The DfE will report back at the next SAB which is due to take place in May.

TP have made the [following announcement](#) on 14th February on this issue; stating it is the employer's decision to increase or decrease a member's salary to trigger indexation. TP have agreed that where a teacher is subject to a pay freeze during the financial year 2021/22, a change of salary must occur during that period for indexation to be applied. However contrary to the union stance, a change of salary can be retrospectively reported to trigger the indexation for 2021/22, as long as the teacher has not applied for their retirement benefits before the change is made.

What is the Council's position on this matter?

Given that the Scheme Advisory Board are considering this matter at their meeting in May 2022 and pending a national approach to this, **we advise schools to not take any action on this matter until the outcome of that meeting is known**. There will still be time after that meeting to action any changes to pay before 31st August 2022.

We have also consulted with other Local Authorities and their approach is the same at this time.

There has been suggestion of making a payment to some, or all, teachers to resolve this but this may have unintended consequences that could make a teacher worse off and a teacher may prefer not to receive a proposed increase if so affected:

- place the teacher in a higher band for pension contributions
- place the teacher in a higher tax bracket (NB only the amount over the tax threshold would be taxed at the higher rate if this were the case)
- affect any entitlement to other benefits such as child benefit.

There is no immediate need to consider the blanket payment of a nominal amount such as a solitary £1 to teachers in your employment. The pay freeze is due to end on 31 August 2022 and before this, we will have a much clearer understanding of whether the DfE intend to address the indexation issue and whether any regulation change will apply retrospectively. If the DfE decide to take no action, we can review options before the end of the academic year.

Other considerations

There may be a small number of teachers who opt to retire in the current academic year, before this issue is resolved. In this scenario, they will need to check if they meet **all** the criteria noted above (see 'Who will potentially be impacted?').

Before making any decisions about their pension, all employees should ensure that they have received an up to date pension estimate and seek any necessary pension advice, including when they are considering retirement. Should any teacher be considering leaving and/or accessing their pension benefits before 31st August 2022, they must first seek advice from the TPS as to whether they are affected by this issue and then raise the matter with their school so that further consideration can be given to their circumstances.

We will provide further updates on this issue in due course.