

Subject:	Pay Progression for Staff in Schools		
Date of Meeting:	8th November 2021		
Report of:	Executive Director - Families, Children & Learning		
Contact Officer:	Name:	Kenneth Simpson – Head of HR (Strategy)	Tel: 01273 291355
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Ward(s) affected:	All		

FOR GENERAL RELEASE

1. PURPOSE OF REPORT AND POLICY CONTEXT

- 1.1 The purpose of this report is to consider a motion resolved at Full Council on 15th July 2021 that the Children, Young People & Skills Committee revises the Council Schools Pay Policy to ensure that from 2021/22 onwards the policy progresses all teachers and school staff up the pay scale annually (and biennially for upper scale teachers) unless the staff member is subject to formal capability process.

2. RECOMMENDATIONS:

- 2.1 That the Committee declines to make the requested amendment to the Model Teacher's Pay Policy for Schools.

3. CONTEXT/ BACKGROUND INFORMATION

- 3.1 Pay and pay progression for staff employed in schools as teachers and non teaching staff, referred to as support staff, are governed by different frameworks.

Support Staff

- 3.2 For support staff there is no statutory framework but pay and grading is determined by a combination of the national negotiating body (the NJC for Local Government Services), local grading structures and policies and the terms and conditions of the contract of employment.
- 3.3 The Council's Pay Policy Statement which is agreed by Full Council every year states that all employees (other than the Chief Executive) progress through their grade each year (subject to satisfactory performance), rising by one incremental point, until they reach the maximum point of the grade. This is incorporated into individual contracts of employment and so applies to support staff employed by the Council in schools.

- 3.4 While there is a link to performance referenced it is extremely rare for incremental progression for support staff to be withheld on this basis and the HR/Payroll system will automatically apply increments when due.

Teaching Staff

- 3.5 Pay and pay progression for teaching staff is governed by the School Teachers' Pay & Conditions Document (the STPCD) which provides the statutory framework for teachers pay which all local authorities and maintained school governing bodies are required to adhere to. The STPCD provides for a range of discretions within the statutory framework and all local authorities and school governing bodies are required to have a policy that sets out the basis on which they determine teachers' pay within the statutory framework. For teachers employed within a maintained school most of the powers and discretions in relation to teachers' pay rest with the Governing Body and not the Local Authority.
- 3.6 As part of its role supporting schools in the city, the Council produces a Model Teachers' Pay Policy which is recommended to schools to adopt. This is updated annually and is consulted on with teacher Trade Unions by the Council on behalf of all schools. The Council also consults Headteachers as key stakeholders.
- 3.7 The STPCD states that the decision whether to award pay progression must be related to the teacher's performance, as assessed through the school or authority's appraisal arrangements in accordance with the regulations that govern the teacher appraisal process. It also states that pay decisions must be clearly attributable to the performance of the teacher in question.
- 3.8 It is ultimately for school Governing Bodies to determine their approach and they may adopt alternative policies or approaches to that recommended by the Council.
- 3.9 The Council's Model Pay Policy includes this statement: "Teachers will normally be expected to have been alerted in writing during the course of the year if there are concerns about performance which may impact on their progression in order that they have an opportunity to address such issues and secure pay progression."

4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

- 4.1 For support staff the Council's Pay Policy is agreed by Full Council in March each year and so the CYPS Committee is not able to amend this policy.
- 4.2 For teaching staff the power and responsibility to determine annual pay progression rests with individual schools who do so in accordance with their legal obligations and the pay policies they have adopted therefore the CYPS Committee cannot compel schools to adopt the policy requested.
- 4.3 The statutory School Teachers' Pay & Conditions Document requires that pay progression decisions are related to performance as assessed in accordance with the Education (School Teachers' Appraisal) (England) Regulations 2012. If there is a blanket policy decision to automatically award pay progression to

someone unless they are subject to formal capability procedures as requested by the motion, this will mean that the determination on pay progression is taken outside of the appraisal process and not linked to the teacher's performance as assessed in that process therefore this is considered to not be compliant with the statutory provisions of the STPCD.

4.4 The STPCD explicitly states that a decision may be made not to award progression whether or not the teacher is subject to capability proceedings.

4.5 If a decision were made to recommend this change in policy to schools the Council would be at risk of being accused of acting outside of its powers and putting schools at risk of legal action for breaching statutory requirements. It is also known that Ofsted looks at teacher performance management arrangements and could raise concerns with individual schools around this approach.

4.6 It should also be noted that the Pay Policy is reviewed annually and for 2021/2022 has already been published. If any changes were to be made to the Pay Policy ahead of the next annual review in September 2022, this would be disruptive

5. COMMUNITY ENGAGEMENT & CONSULTATION

5.1 Headteachers of maintained schools in the city have established representative groups for the primary, special, and secondary school sectors. The views of these groups on the proposed motion and its effect on school Pay Policies has been sought.

5.2 Feedback from the headteacher representative groups was consistent in expressing concern about the proposed changes. Headteachers expressed their view that teacher's pay and progression is a matter for schools and the professionals that work within them. Headteachers are clear that the pay policy and appraisal policy sit together and form an important part of school improvement ensuring equity across their profession.

5.3 Headteachers also expressed the concern that a consequence of the proposed change could be that more teachers become subject to capability procedures or that formal capability procedures are considered more quickly.

6. CONCLUSION

6.1 It is recommended that the Council does not make the requested change to the Model Pay Policy that is recommended to schools because of the risk that this change would be in breach of statutory STPCD which maintained schools and the Council are legally obliged to adhere to.

6.2 The proposal is also not supported by Headteachers and Governing Bodies may choose to not implement the recommended Model Pay Policy. For many years the Council, schools and Trade Unions have worked to maintain a consistent whole city approach to such issues and have consistent policies across all schools despite their individual abilities and powers to make their own decisions and deviate from a common position. If this change in policy is agreed without

support from Headteachers it may lead to fragmentation of this common approach and schools not adopting the policies recommended by the Council.

7. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 7.1 There are no direct financial implications arising from the recommendation that the Committee declines to make the requested amendment to the Model Teachers' Pay Policy for schools.
- 7.2 There would be a potential risk of schools incurring additional costs in a situation where automatic pay progression was implemented.

Finance Officer Consulted: Steve Williams

Date: 26/10/2021

Legal Implications:

- 7.3 The School Teachers' Pay and Conditions (England) Order 2021 makes provision for the determination of the remuneration of school teachers (within the meaning of section 122 of the Education Act 2002) in England and other conditions of employment of school teachers. The Order makes this provision by reference to the School Teachers' Pay and Conditions Document 2021 (the STPCD) and guidance on school teacher's pay and conditions.
- 7.4 The statutory regime provides that responsibility for determining teacher's pay progression rests with individual governing bodies and not the Council. In this regard governing bodies must act in accordance with their statutory obligations and the pay policies they have adopted.
- 7.5 The STPCD makes it clear that any decision whether to award pay progression must be related to the teacher's performance as assessed through the school or Council's appraisal arrangements in accordance with the Education (School Teachers' Appraisal) (England) Regulations 2012. Governors do not have the power to adopt a blanket policy which automatically awards annual pay progression.

Lawyer Consulted:

Serena Kynaston

Date: 26/10/2021

7.6 Equalities Implications:

- 7.7 There are no direct equalities implications arising from this report. Guidance in the statutory STPCD states that school pay policies must comply with the requirements of discrimination legislation including the Equality Act 2010. The Department for Education also publishes additional guidance called 'Implementing your School's Approach to Pay' which provides further detailed guidance on the issues that schools should consider regarding equalities and avoiding discrimination in relation to teachers' pay.

Sustainability Implications:

- 7.8 None

Brexit Implications

7.9 None

Any Other Significant Implications:

7.10 None

