



## SCHOOL TEACHERS' PAY

**NUT GUIDANCE ON PAY PROGRESSION  
SEPTEMBER 2014**

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This NUT guidance document is part of an NUT toolkit for NUT members and NUT representatives on pay progression. It gives advice on how the pay progression system for classroom teachers works.

Read It in conjunction with the rest of the NUT toolkit on pay progression, which includes separate guidance documents on assessing and challenging school policies on pay progression and on pursuing appeals against denial of pay progression.

This year will be the first when pay progression for all teachers will depend on appraisal outcomes and criteria set by schools. Being aware of how the pay progression system works, and taking action to challenge pay policies collectively or appeal decisions individually, will be essential to help protect teachers' pay.

The full NUT toolkit can be found [here](#), while the 2014 School Teachers' Pay & Conditions Document (STPCD) and DfE advice to schools on pay policy issues can be found [here](#) (the full weblinks can be found at the end of this briefing).

### **SECTION 1 STATUTORY PROVISIONS ON PAY PROGRESSION**

Pay progression decisions on the Main and Upper Pay Ranges are now covered by a single set of provisions. All decisions must be related to performance. Governing bodies set their own detailed criteria for pay progression - although they must be consistent with the STPCD's broad requirements - and decide whether eligible teachers should progress. The school's pay policy should set out the criteria for pay progression and any pay scales in use in the school.

#### ***Summary of the statutory requirements***

- Governing bodies must have a written pay policy which sets out the basis on which they determine teachers' pay, including the criteria for pay progression.
- The STPCD sets out broad procedural requirements relating to pay progression - but the governing body determines the specific criteria for pay progression in the school.
- When taking decisions on pay progression, governing bodies are required to comply with the statutory provisions and to "have regard" to the appraisal reviewer's recommendation on pay progression.
- Pay progression decisions must be carried out for teachers eligible for progression – there is no requirement for applications or evidence.
- Teachers should be notified of decisions in writing at the earliest opportunity and within one month. Any pay increase is effective from the preceding 1 September.
- Governing bodies must have appeals procedures.

The following NUT advice refers to the provisions of the 2014 STPCD and the DfE's advice to schools on pay policies and pay decisions.

### ***Statutory timetable for decisions***

The STPCD requires every governing body to carry out an annual pay determination for every teacher, including every post-threshold teacher, on or after 1 September (para 3.1 (a)).

The governing body should take all decisions on pay progression and notify every teacher of the outcome in writing at the earliest opportunity and no more than one month later (para 3.4). Any consequent pay increase is effective from the previous 1 September (para 3.1 a).

Governing bodies are now able to decide if they wish that, from September 2014, teachers are eligible for pay progression every year rather than every two years.

### ***Statutory provisions on progression***

The key provisions of the 2014 STPCD on pay progression are as follows:

- Para 19.2 says that the governing body decides how pay progression will be determined, subject to the following requirements:
  - *"the decision whether or not to award pay progression must be related to the teacher's performance"* as assessed through appraisal;
  - a written pay recommendation must be made as part of the appraisal report and the governing body *"must have regard to this recommendation"*; and
  - *"continued good performance as defined by an individual school's pay policy should give [a teacher] an expectation of progression to the top of their respective pay range"*.
- Para 19.3 requires the governing body to set out clearly in the school's pay policy how pay progression will be determined.

The governing body must therefore set detailed criteria for pay progression but they must be consistent with these STPCD statutory provisions. The particularly important ones for teachers' purposes are the requirement to *"have regard" to the appraiser's pay recommendation and the expectation of progression on the basis of "continued good performance"*.

### ***Guidance on taking pay decisions***

Although the 2014 STPCD no longer includes "statutory guidance" on taking pay decisions, the DfE has published non-statutory advice for governing bodies. The NUT and the other teacher unions were involved in drawing up three sections of this advice: on the Equality Act 2010 as it affects appraisal and pay decisions (pages 13-17); the role of evidence in appraisal and pay decisions (pages 18-20); and managing pay appeals (pages 25-27). The rest of the advice was not drawn up in consultation with the NUT and does not have the NUT's endorsement - particularly the model pay policy and the appendix on possible criteria for pay progression which the NUT strongly oppose.

## **SECTION 2**

### **NUT ADVICE ON THE PROCEDURES FOR PAY PROGRESSION**

#### ***Responsibility for decisions on pay progression***

Governing bodies can delegate decisions to a governing body committee, individual governors or the head teacher. **The NUT believes that decisions should be taken by the committee responsible for pay/staffing issues and reported to the full governing body. Decisions should not be delegated to the head teacher alone.** References to *"the governing body"* in this document include, where appropriate, any governing body committee taking pay decisions.

### ***Procedure for taking decisions***

The appraisal regulations require that where a teacher is eligible for pay progression, the reviewer must make a recommendation on pay progression which is passed to the head teacher as part of the planning and review statement. The STPCD requires the governing body, in making its decision on progression, to have regard to that recommendation.

The governing body is not bound by the reviewer's recommendation; nor is the head teacher denied the opportunity to advise the governing body. Where head teachers offer advice to governing bodies, however, any departure from a recommendation to progress should be justified by clear and strong evidence.

The governing body must satisfy itself whether a teacher has met the standards required for progression whenever any recommendation is made that a teacher should not progress. The governing body should itself consider the issues and the evidence for the recommendation and the advice of the head teacher, not just simply agree to follow the reviewer's recommendation without such a discussion.

### ***Timetable for decisions and notification of decisions***

The STPCD provides (para 3.4) that teachers must be notified in writing of the outcome of the pay decision at the earliest opportunity and no more than one month later. The NUT advises that the notification given to teachers should contain the reasons behind the recommendation of the head teacher and the decision of the governing body. Denial of such information would be an obstruction of the teacher's right of appeal.

### ***Applications and further evidence***

Pay progression is not an application process - the STPCD *requires* governing bodies to undertake annual pay determinations for all teachers (para 3.1). Teachers cannot be required to "apply" or complete any application form. Pay progression decisions must be taken whether or not a teacher has "applied" or provided evidence sought by the school.

The DfE advice states that the appraisal review should be the only source of evidence teachers require to support pay progression. Teachers should not be required to submit additional evidence - they may choose to do so if they wish to draw attention to particular achievements but if they decide not to do so then the governing body must still take the pay decision and the teacher should not be penalised in any way.

### ***Appeals***

The STPCD requires schools to have an appeals procedure for pay decisions (para 2.1(b)).

The DfE advice (agreed with the NUT and with NAHT and ASCL) gives guidance on appeals procedures. It says that teachers must have the right to a formal hearing at which the teacher can appear in person, represented if they wish by a union representative. It also suggests that when a head teacher is intending to recommend that a teacher should not progress, the teacher should be informed in advance and allowed to appear before governors at the meeting at which they will consider the recommendation. This is a valuable opportunity to persuade governors not to take a decision to deny pay progression - which may be much easier than persuading an appeals panel to overturn a decision once it has been taken.

The appraisal regulations also require an appeals procedure allowing teachers to appeal against their appraisal statements, including any pay recommendation that they should not progress. The NUT advises that, in such cases, the appeals process should not involve the governing body committee which takes decisions on pay progression.

How NUT members should proceed in such situations is considered in Section 5, "NUT Support to Members" and in the separate guidance in this NUT toolkit on Pay Appeals.

### **SECTION 3 NUT ADVICE ON CRITERIA AND STANDARDS FOR PAY PROGRESSION**

#### ***Standards required for progression***

The STPCD requires that *"pay decisions must be clearly attributable to the performance of the teacher in question"* and that *"continued good performance as defined by an individual's school's pay policy should give a classroom or unqualified teacher an expectation of progression to the top of their respective pay range."*

The following sections set out NUT advice on the proper interpretation and application of the statutory provisions in the context of three matters commonly included in schools' progression criteria - performance against the Teachers Standards, achievement of appraisal objectives, standards of teaching as measured by classroom observations, and overall judgements of performance.

The NUT's view is that teachers are to be awarded pay progression following two successful appraisal reviews. Reviews should be deemed successful unless significant concerns about a teacher's performance have been raised in writing with the teacher during the annual appraisal cycle and have not been sufficiently addressed through support provided by the school by the conclusion of that process.

#### ***Performance against the Teacher Standards***

The Teachers' Standards (or in Wales the Practising Teachers' Standards) form a backdrop to appraisal, informing the setting of the teacher's objectives and the appraisal discussion. There is no requirement to assess teachers' performance against the Standards individually.

The Standards should not, therefore, be used as a checklist for assessing the teacher's performance. If they were so used, the appraisal discussion will be diverted away from the key issues and objectives identified at the initial appraisal meeting. In the NUT's view, appraisal assessments should start from the premise that the teacher is continuing to meet the Teachers Standards unless there is evidence to the contrary.

Some governing bodies have been persuaded to adopt complex, but essentially meaningless, documents which purport to identify and define the precise levels of performance expected of teachers under each heading of the Teachers Standards and at each stage of their career. The NUT rejects such documents which would reduce teacher appraisal to a tick box exercise and prevent professional dialogue on performance or professional development. This view is largely shared by the DfE advice to schools, which says that *"It is not necessary for schools to adopt rigid models that seek to set out exactly what the relevant standards mean for teachers at different stages in their careers, and teachers should not be expected routinely to provide evidence that they meet all the standards."*

#### ***Achievement of objectives***

Objectives which will be used to inform pay decisions must be appropriate and fit for purpose. The DfE advice to schools identifies a need for *"targets and objectives that enable teachers to demonstrate performance, rather than simply results"*.

The NUT has issued separate guidance on objective setting as part of appraisal. Objectives which are unachievable or otherwise inappropriate will skew the appraisal process and obstruct pay progression. Teachers should challenge any objectives they think are unachievable or

inappropriate at the outset and, if they are imposed, to record their objections in writing. Failure to do this at the time does not, however, in any way obstruct the right to appeal on the basis that the objective was inappropriate or unachievable.

The NUT expects that teachers who met their objectives should normally receive pay progression even though the DfE advice suggests that this should not automatically be the case. Conversely, teachers who do not fully meet objectives should not automatically be denied pay progression. The DfE advice says that "making good progress on, but not quite achieving, an objective should be taken into account" and that schools might consider that "a teacher who has made good progress on, but not quite achieved, a very challenging objective has performed better and made a more significant contribution than a teacher who met in full a less stretching objective".

### ***Standards of teaching / Judgements of overall performance***

The STPCD provides clearly that "continued good performance ... should give [a teacher] an expectation of progression". Criteria which set higher standards for progression that this will obviously offend against the STPCD's statutory requirements. The use of criteria imposing standards of performance in excess of that specified in the statutory provisions could be seen as unlawful practice, adopted to ensure that teachers do not progress.

The NUT has seen various pay policies which include criteria requiring teachers to meet standards of teaching or of overall performance which use wording such as "sustained high quality", "outstanding", "good with elements of outstanding" etc. All of these are inappropriate progression criteria to adopt in pay policies applying to classroom teachers.

The criterion of "sustained high quality" appears in the STPCD pay progression provisions for leadership teachers, not classroom teachers; consequently, it has a different meaning to "continued good performance" and, if applied to classroom teachers, will put the governing body in breach of the STPCD's requirements. Other formulations such as "outstanding", "good with elements of outstanding" or even "performance at the highest possible level" also clearly go beyond "continued good performance". Similarly, teachers should not be expected to be "models of good practice" in order to achieve pay progression. Again this would lead to pay progression being the exception rather than the norm.

## **SECTION 4 NUT ADVICE ON COMMONLY ENCOUNTERED SITUATIONS**

### ***Teachers who have not been subject to appraisal***

In most cases, governing bodies will be able to decide whether a teacher meets the criteria for pay progression by reference to the outcomes of appraisal and the reviewer's recommendation. In some cases this will not be appropriate or possible eg where teachers are or have been on maternity leave, extended sick leave or secondment; or where previous schools have not provided information relating to appraisal reviews.

**The DfE has published advice, agreed with the NUT, which advises governing bodies that denying progression in such circumstances can be unlawful discrimination. For that reason, in all such circumstances governors should take decisions by reference to any information that is available.** They may need to consider information from only one appraisal review or from whatever part of the appraisal cycle when the teacher was present. In extreme circumstances, the decision might be taken on the basis that the teacher's performance might have been expected to have been maintained throughout the appraisal period in question; or postponed until information is available from the following school year and then backdated. Where a governing body acts in this way, complaints of unfair treatment and possible unlawful discrimination are less likely to arise.

### ***Teachers on maternity or extended sick leave or otherwise absent during the period***

The DfE advice confirms that such teachers are entitled to consideration for pay progression in the same way as other teachers, whether or not they have returned to service following the period of absence. In such cases, however, appraisal reviews may not have been completed and the governing body may not have any reviewer's recommendation to consider.

Again, governing bodies should take decisions by reference to such information as is available. This might include information from the most recent appraisal review or information from any part of the period when the teacher was present.

Failure to consider progression in this way could clearly constitute less favourable treatment on the basis of gender or disability and leave the governing body open to complaints of unlawful direct discrimination.

### ***Teachers who have moved post***

Any teachers who move post with effect from 1 September 2014 or have moved during the previous year are still entitled to be assessed for pay progression. They should not be denied it simply on the basis that they have not been subject to a full appraisal cycle at the school.

Previous STPCDs included formal statutory guidance that, where teachers had moved schools, head teachers should consult with the previous school's head to seek evidence and that where confirmation is provided that the teacher's work satisfied the criterion, this should be accepted. Although the 2014 STPCD no longer includes that advice, the NUT believes it remains valid. Where information is not forthcoming, the decision should be based on such information as is available or deferred to allow information to be obtained relating to the present post.

### ***Teachers who have moved schools and were previously paid on the UPR***

Teachers paid on the UPR no longer have a statutory right to continue to be paid on the UPR when they move school. The 2014 STPCD provides governing bodies the discretion to pay teachers on the UPR in certain circumstances including where they have previously been paid on the UPS. Although the Government has abolished pay portability, the NUT believes that school's pay policies should commit to the principle of pay portability and to apply that principle in practice when making new appointments. The NUT believes that a teacher who was previously paid on the UPR at his/her previous school should, therefore, still be paid on the UPR at the new school upon appointment.

### ***Teachers who have moved from other sectors***

The 2014 STPCD provides governing bodies the discretion to pay teachers on the UPR in other circumstances where they meet the definition of "post threshold teachers" in Annex 3. This list includes teachers previously paid as leadership teachers or advanced skills teachers; teachers who have passed the threshold or equivalent standards while working in sixth form colleges, Northern Ireland, academies and other situations; and teachers previously employed as Soulbury-paid local authority advisory staff.

On appointment, governing bodies can determine at which point such a teacher will be paid (2014 STPCD para 14.4.), allowing the teacher to be appointed above the minimum point of the UPR. The STPCD statutory guidance had previously advised governing bodies to consider any pay progression made in their previous capacity under pay provisions comparable to the UPS and said that they "*should not unreasonably withhold appointment at the equivalent point on the UPS*". Although the 2014 STPCD no longer includes that advice, the NUT continues to support that practice.

***Teachers already paid on the UPR***

Progression to the UPR does not alter the professional duties or obligations of teachers. They should not be required to take on additional duties without payment - additional responsibilities should be rewarded through payment of teaching and learning responsibility (TLR) payments.

***Teachers denied pay progression in previous years***

Any teacher who is eligible for pay progression, but does not receive progression, must be considered for pay progression again the following year as part of their annual pay assessment.

***Teachers with more than one post***

Some teachers hold two or more posts and are employed simultaneously on, for example, two separate regular part-time contracts with different schools. In such situations, separate annual pay determinations have to be undertaken in each of the schools concerned.

Where pay progression is being considered, the common sense solution is for a decision to be taken in the school in which the teacher works most of the time and adopted in the other school as well. A decision in one school does not legally bind the decision in the other school, however, so in such cases it is possible for a teacher to progress to a higher pay point in one school than in the other.

***Teachers employed for less than a term***

Teachers employed on contracts lasting less than a term are also entitled to an annual pay determination. Recommendations and other evidence from appraisal may not, however, be available as they are not covered by the statutory appraisal requirements.

Governing bodies should decide whether such teachers meet the criteria by reference to such information as is available. Where they have worked at the school for a significant period, sufficient evidence may be available to allow the decision to be taken. Where they have worked at another school or schools, the head teacher should consult with the previous head teacher to seek evidence. Where such information is not available, the decision should be based on such information as is available or deferred to allow information to be obtained relating to the present post.

***Supply teachers***

Supply teachers employed by LAs or by governing bodies of foundation or voluntary aided schools are entitled to an annual pay determination and consideration for pay progression in the same way as other teachers. The NUT advises that decisions should be taken by the governing body of the school in which the teacher has worked most frequently.

Supply teachers employed by agencies rather than by local authorities or governing bodies (including those undertaking long-term placements) are, regrettably, not covered by the provisions of the STPCD. Their pay is determined by the agency concerned and, for many teachers, does not match the levels of pay available under the Main and Upper Pay Range provisions of the STPCD.

***Unattached teachers employed by LAs***

The 2014 STPCD's provisions on annual pay determinations and pay progression apply to "unattached teachers" employed in LA central services or in pupil referral units in the same way as other teachers. They should be applied in the same way as for teachers employed in schools. The body responsible for pay decisions may be the local authority or a management committee. The pay decision should be in such cases be delegated to an appropriate panel or

individual but should not be taken by the line manager who undertakes the teacher's appraisal review and makes the pay recommendation. If appraisal is not taking place, teachers are still entitled to be considered for pay progression as set out above.

## **SECTION 5 NUT SUPPORT FOR MEMBERS**

The NUT is determined that all teachers should be treated fairly and equitably with regard to pay progression. NUT representatives should seek confirmation from the head teacher that pay decisions will be taken and notified by 31 October. They should also ask the head teacher to issue information about the process for pay progression decisions as soon as possible after the start of the academic year.

### ***Failure to take pay decisions***

In such cases, NUT representatives or NUT members individually should seek assurances from the head teacher that pay decisions will take place as required by the 2014 STPCD and will be taken in accordance with the statutory provisions and school pay policy criteria which match NUT policy.

Where arrangements for pay decisions appear to contradict the statutory provisions and the NUT's advice, assistance should be sought from the NUT local secretary or from the NUT regional office or, in Wales, NUT Cymru.

### ***Decisions that NUT members will not progress***

NUT members who have been informed that they will not progress will need to consider whether they wish to appeal and if so on what basis.

Any NUT member who wishes to appeal should consult the NUT guidance document on pay appeals included in the NUT toolkit. They should register their appeal within the timetable set by the school pay policy and they should use the NUT model letters included with the NUT toolkit to register the appeal and ask for relevant information in writing.

## **SECTION 6 WEBLINKS**

See the full NUT toolkit on pay progression at  
[www.teachers.org.uk/payandconditions/paytoolkit](http://www.teachers.org.uk/payandconditions/paytoolkit)

The 2014 School Teachers' Pay & Conditions Document can be found at:  
<https://www.gov.uk/government/publications/school-teachers-pay-and-conditions-2014>

The DfE's advice to schools on pay progression issues can be found at:  
<https://www.gov.uk/government/publications/reviewing-and-revising-school-teachers-pay>