



Local Authority Directors of Children's Services
Chairs of school and academy trust governing boards
Academy Trust Chief Executive Officers

November 2021

Dear colleague

Indexation in the Teachers' Pension Scheme

We are writing to you about an issue which is of crucial importance to the pension provision of teachers and school leaders.

The issue relates to indexation in the final salary section of the Teachers' Pension Scheme (TPS). The 2010 TPS Regulations, which apply to this scheme, establish that the calculation method for the 'best consecutive three years in ten' average salary only applies indexation if the salary rate changes. This leads to non-indexation of benefits during periods of pay freeze and consequent pension losses for teachers and school leaders.

Regulation 37 of the Teachers' Pensions Regulations 2010 states the following:

(9) P's increased relevant salary during any period is P's relevant salary during that period calculated as if P's relevant salary during any relevant salary period were increased by the amount (if any) by which, immediately before the end of P's average salary service, it would have been increased if it had been an official pension within the meaning of section 5(1) of PIA 1971 beginning, and first qualifying for increases under that Act, on the same day as the relevant salary period ended.

(10) In paragraph (9) a "relevant salary period" means a period during which the rate of P's relevant salary does not change.

Regulation 37 (9) and (10) demonstrates that what is required for indexation to be credited is that the salary rate changes. An increase in the salary rate triggers indexation but a salary freeze does not trigger indexation. The Department for Education (DfE) accepts that this is the position.

As unions, we have asked the DfE to amend the Regulations above, but even if the DfE agrees this would not happen quickly and, certainly would not apply retrospectively to 2021/22.

There is, however, a remedy to this situation, which is not costly for schools and academy trusts, but would potentially make a significant difference to the pension levels of the teachers which you employ.

We draw your attention to sub-paragraph 27.1 in the School Teachers' Pay and Conditions Document (STPCD) which confirms that: *'Subject to paragraph 27.2, the relevant body or, where it is the employer in the case of an unattached teacher, the authority, may make such payments or provide such other financial assistance, support or benefits to a teacher as it considers to be necessary as an incentive for the recruitment of new teachers and the retention in their service of existing teachers.'*

A recruitment and retention payment, **at any level**, would change pensionable salary and this would trigger TPS indexation under the circumstances which we have set out above. There is no specific threshold of payment which would trigger TPS indexation.

This would not be costly – for example, a payment of £1 per teacher would be sufficient to trigger TPS indexation. We are not asking for a commitment for this payment to be repeated in subsequent years – however, the earlier this payment can be made in 2021/22 the greater the pension benefit.

In respect of school leaders, we encourage you to explore the flexibilities which exist within the STPCD and your pay framework to ensure that school leaders do not have their pay frozen for 2021/22.

Please do discuss our requests directly with the representatives of our unions who negotiate with you at school, local authority, or academy trust level. We wish you all the best for 2021/22.

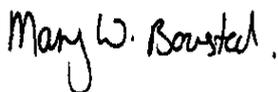
Yours sincerely



**Geoff Barton – General Secretary
ASCL**



**Paul Whiteman – General Secretary
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**Kevin Courtney – Joint General Secretary
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