

Advice Note: Teachers' Pensions Indexation and 2021 Pay Freeze

An issue has been identified concerning the Teachers' Pay Freeze in 2021 which may affect a small number of teachers in relation to their pension.

Background

This issue relates to teachers who have service in the Final Salary Scheme whose pension benefits are calculated against the higher of the average of the final year's salary, or the average of the best three years in the last ten years (the average salary calculation). Indexation is applied in the case of the average salary calculation to reach the actual salary figure that would be used, taking into account inflation. Regulations only allow indexation to be applied in a financial year when there is a 'pay event' that the scheme administrator can apply indexation against (a pay increase or pay decrease).

A number of individuals and unions have written to schools and academies highlighting this issue and proposing solutions. The DfE in turn has considered the matter. The DfE is in discussion with the Teachers' Pension Advisory Board to consider whether in the long-term legislative and/or policy changes need to be made to address this issue but, should they be minded to make changes, these will take considerable time to be put in place. In the meantime, the DfE has suggested that consideration needs to be given to the potential short-term impact on retaining teachers who may be affected by the pay freeze this year.

Who is affected

This issue will not affect the majority of teachers, since those who have had a pay change since 1 April 2021, those who only have membership in the Career Average Scheme and those more than 10 years from retirement are not affected.

Those who may be affected are teachers and senior leaders who:

- have service in the Final Salary Scheme (i.e. first joined the Teachers' Pension Scheme prior to 1 April 2015); **and**
- have not received any full-time equivalent pay increase during this financial year (i.e. have not received pay progression on their pay range in September, promotion onto a new pay range or a new allowance between 1 April 2021 and 31 March 2022);

Remedial Action

As this is not an issue that affects all teachers and senior leaders, Oxfordshire County Council is not intending to make a change to the model pay policy. The DfE position is that the appropriate action would be to consider a notional increase for only those teachers affected where this causes a genuine retention concern. The Local Authority supports this approach for Maintained Schools.

Decisions on pay are the responsibility of Governing Bodies and we explain below how this might be dealt with and outline next steps.

The recommendation is to award a £2 full-time equivalent annual increase to any teacher affected with effect from 1 September 2021 to 31 August 2022. This would trigger indexation at minimal cost for the school. Whilst some communications have suggested an increase of £1, we would advise that this is processed as £2 to avoid any rounding issues in payroll, to ensure the adjustment is sufficient to trigger indexation. These payments should be processed via your payroll provider as soon as possible but by August 2022* payroll at

the latest. When the payment is processed, Teacher's Pensions will be notified of the salary increase back to 1 September 2021, triggering the indexation.

*Whilst it is ideal to apply these in the financial year, i.e. in March 2022 payroll, these payments can be applied up to August 2022 and retrospectively applied with an effective date of 1 September 2021. The only instance where a retrospective application cannot be made is where an individual has already applied for retirement benefits.

Maintained Schools are obliged to operate within the Teachers' Pay and Conditions Document and follow their pay policy. Therefore the £2 payment should be made in the following way:

- Mainstream teachers and Leadership Pay Ranges (excluding Headteachers):
Action: the payment of £2 can be made as a Recruitment and Retention (R&R) Payment for a fixed term of one year from 1 September 2021 to 31 August 2022 at a recurring payment of **£0.17 pcm**.
- Headteachers are not eligible to receive R&R Payments and therefore would need to have their pay range reviewed and their salary point value increased. Within the Oxfordshire model policy, the gaps between values are more significant than the notional amounts advised by the DfE, so Oxfordshire County Council recommends that Governors make a temporary notional adjustment of **£2 per annum** with effect from 1 September 2021 to 31 August 2022 to trigger indexation, then revert the leader back to the standard salary point value from 1 September 2022 when the next pay award would be due to be applied. Governors need to be aware that this would have the effect of taking senior leaders off the prescribed values of points within the pay policy in 2021-2022 and in some instances would take leaders outside of their group size. **Action:** Schools should instruct the IBC to apply a £2 FTE increase to annual salaries via the Headteachers organisational change achieve form. A note should be added to the form to confirm that the change is for a 12 month period and for Teachers Indexation.

For Oxfordshire maintained schools, Oxfordshire County Council notes and acknowledges these solutions as practical, affordable solutions to this present issue, subject to schools ensuring that the R&R allowance is temporary and, where leaders' pay ranges are adjusted, this is also on a temporary basis with salary reverting to the correct pay point value from 1 September 2022.

In all instances, these decisions rest with Governors. Whilst Governing Bodies may ordinarily delegate the pay policy (which would include the issue of R&R allowances) to the Pay Committee, the matter of changes to leadership pay ranges rests with the Full Governing Body. However, given these are temporary payments that do not expose the school to long-term risk and are a proportionate approach to protecting the long-term interest of staff, a pragmatic approach may be taken. If governors wish to expedite how this is dealt with, the Chair of Governors and Chair of the Pay Committee can make a determination and report back the decision taken at the next Full Governing Body. Governing Bodies should minute the reasons for their decisions on this matter, the values agreed, the time period applicable, and also particularly minute if they make a determination to temporarily go outside of the group size in the case of Headteachers.

Other considerations

Account also needs to be taken of any unintended consequences this increase may have on the teacher. These might be that the increase:

- places the teacher in a higher band for pension contributions (see table below):
- places 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)
- affects any entitlement to other benefits such as child benefit.

A teacher may prefer not to receive the increase if so affected.

Next Steps

- Governing Body to agree approach.
- Identify those teachers affected and any potential unidentified consequences (which should be discussed with the teacher so they can decide if they want to accept the temporary pay increase).
- Confirm in writing to affected teachers (sample letter below), providing date for response
- Once a response is received, process payments where applicable, via your payroll provider asap but no later than August 2022 payroll, with an effective date of change of 1 September 2021 or later where they have started after this date (provided this is before 31 March 2022). Please see note below regarding payroll processing via IBC.
- Please note, schools should prioritise any individuals who are going to be applying for retirement benefits so that this is applied in payroll prior to any retirement benefit application as it will be too late to make any changes once an individual has made their application.
- Confirm the details of the changes in writing to the individual teacher

Identifying those affected

Schools can work through the criteria below to identify those staff who may be affected. Staff will only be impacted by the pensions indexation issue where they meet all three of these criteria. Schools should use the criteria to identify staff who are impacted to minimise the numbers of staff to whom the school needs to send the sample letter.

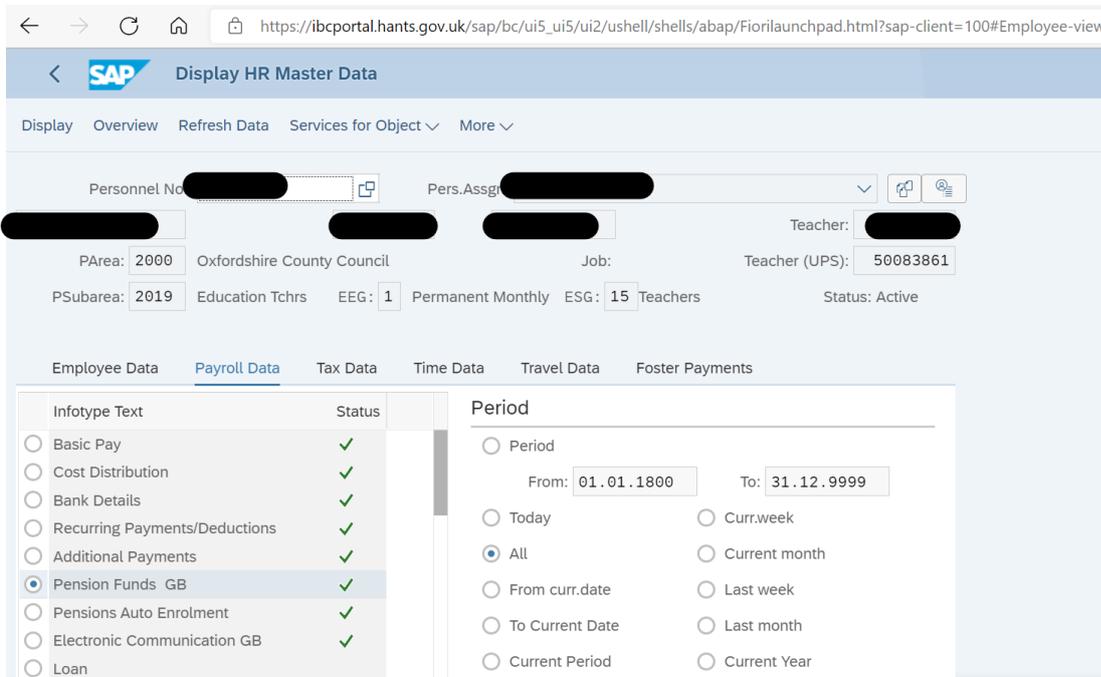
1. Staff that were 45 or older as of 1 April 2021
2. Those who have had no FTE * salary increase or decrease of greater than £2 since 1 April 2021, meaning
 - a. No stepdown from leadership to upper pay range with salary reduction of greater than £2 since 1 April 2021
 - b. No pay progression up their pay range or promotion onto another pay range with salary increase of greater than £2 since 1 April 2021
 - c. No increase or decrease in any allowances over greater than £2 since 1 April 2021
3. Those who have service in the Final Salary element of the Teachers' Pensions Scheme and continue to be members of the scheme – this means that they would have been working as a teacher prior to 1 April 2015 and continue to be members of the Teachers' Pension Scheme (i.e. have not opted out) #

*Salary increases/decreases that solely occur due to movement to part-time or to full-time do not affect the FTE salary and therefore these staff remain included.

Maintained schools using IBC can use continuous service date (date type 05 in date specifications) to identify staff who were employed prior to April 2015 and this should also include staff who were employed outside of Oxfordshire at this date.

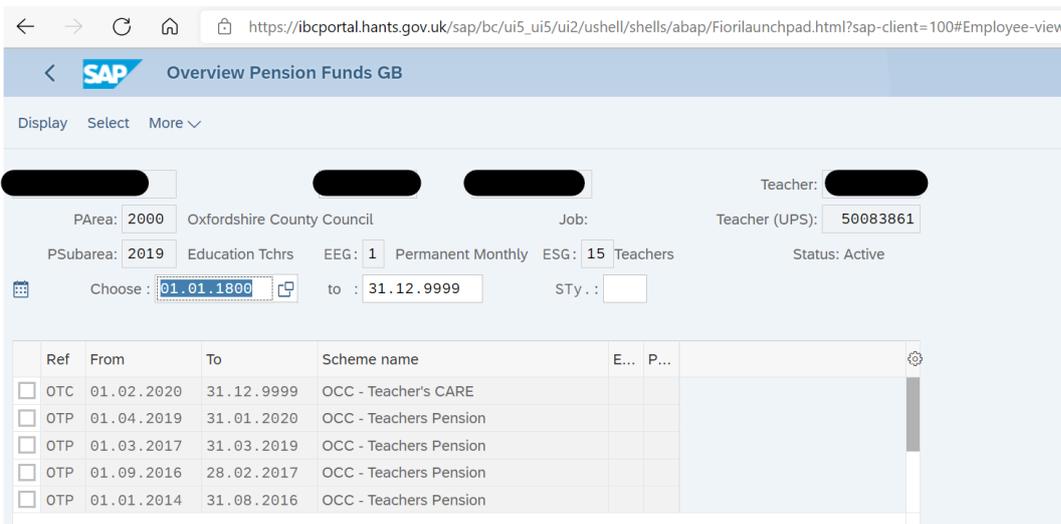
Maintained schools using IBC will be able to view current and dependent upon their service with Oxfordshire, their pension history via the Maintain HR Master Data app in the portal. To do so:

Enter the employee's personnel number into the Maintain HR Master Data App. Select the 'Payroll Data' tab then select the radio button next to 'Pension Funds GB'. Ensure 'All' is selected in the 'Period' section on the right hand side and then click 'Overview'



The user will then be presented with a list of pension details for each year. Ref TPS Teachers Pension Scheme refers to service in the final salary pension scheme and an end date of 31.12.9999 on the most recent pension entry indicates that they are contributing to a pension scheme. If the end date of the most recent line is not 31.12.9999 this will indicate that the employee has opted out.

Schools should therefore be able to identify that they were a member of the Teachers' Pension Scheme prior to April 2015 and continue to be a member of the scheme.



Ultimately teachers should also be able to evidence that they were members of the Teachers Pension Scheme through logging on to TPS online and schools may wish to ask staff to provide this to verify that they have service in the Final Salary element of the scheme (i.e. prior to 1 April 2015)

Processing payment via IBC

Maintained schools will need to process payments to staff via IBC. Schools should note that you can only use the change pay form and recurring payment form in the portal to back date by 6 months. If you go back further, you get an error message.

Schools should only back date to 1 September 2021 at the earliest and will need to go as far back as they can in the portal. Where necessary, schools should raise an enquiry to the IBC to amend the date, providing the details of each individual on the enquiry.

Teacher Pension Contribution thresholds

Annual Salary Rate for the Eligible Employment from 1 April 2021 – 31 March 2022	Annual Salary Rate for the Eligible Employment from 1 April 2022	Member Contribution Rate
Up to £28,309.99	Up to £29,187.99	7.4%
£28,310 to £38,108.99	£29,188 to £39,290.99	8.6%
£38,109 to £45,185.99	£39,291 to £46,586.99	9.6%
£45,186 to £59,885.99	£46,587 to £61,742.99	10.2%
£59,886 to £81,661.99	£61,743 to £84,193.99	11.3%
£81,662 and above	£84,194 and above	11.7%

Sample Letter

Dear XXXX

Teachers' Pensions Indexation and 2021 Pay Freeze

An issue has been identified related to the pay freeze in 2021 which may affect a small number of teachers in relation to their pension.

Background

Where teachers have membership in the final salary pension scheme, the average salary of the best consecutive 3 years in the previous 10 years prior to retirement is used to calculate pension benefits, where this is more favourable than the salary in the year prior to retirement. For this calculation, salaries are revalued to account for inflation (known as indexation).

This indexation only occurs in financial years where there has been a change in salary. This means that in any year where there is no change in salary, indexation does not take place and this has the potential to disadvantage some teachers in the calculation of their final salary pension benefits.

Who is affected

We believe that you may be affected by this issue because:

- you first joined the Teachers' Pension Scheme (TPS) prior to 1 April 2015 and therefore have pension in the Final Salary Pension Scheme **and**,
- you have who have not received any pay increase this financial year; **and**,
- you are within 10 years of when you could potentially access your retirement benefits (i.e. at age 55).

Potential remedial action

The DfE have indicated that where this would cause a retention concern, the Governing Body can make a temporary Recruitment and Retention allowance for classroom teachers, or for those on leadership pay, a temporary adjustment to the salary point value. In both instances this would be no more than £2 in full-time equivalent value and paid only between 1 September 2021 and 31 August 2022. Our Governing Body has taken the decision to do this where staff believe they are affected.

In a small number of instances, an additional payment could:

- place you in a higher band for pension contributions
- place you 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.

In such instances, you may prefer not to receive the increase

Next steps

Please can you make contact with the Headteacher/your line manager/School Business Manager to confirm if you believe that this issue does apply to you and state whether or not you wish the school to proceed with a payment. Please confirm in writing by DATE.

Yours etc