

**Consultation Response to the proposal to introduce a flat rate of pay for
Prematurely Retired Teachers who return to teaching and proposed
changes to the Common Funding Scheme for the Local Management of
Schools**

April 2011

1. Introduction

ATL, the education union, recognises the link between education policy and our members' conditions of employment. Our evidence-based policy making enables us to campaign and negotiate from a position of strength. We champion good practice and achieve better working lives for our members.

We help our members, as their careers develop, through first-rate research, advice, information and legal support. Our 160,000 members – teachers, lecturers, head-teachers and support staff – are empowered to get active locally and nationally. We are affiliated to the TUC and ICTU, and works with government and employers by lobbying and through partnership.

2. TNC

ATL is concerned that the role of the Teachers Negotiating Committee, which is set up to negotiate the pay, terms and conditions of teachers, should be the primary place for discussion and debate on this issue. We are disappointed that the role of the TNC appears to have been usurped and undermined in the development of these proposals.

3. THE POSITION OF NQTs

NITC are sympathetic to the position in which Newly Qualified Teachers (NQTs) find themselves. The GTC NI figures indicate that fewer than 1 in 5 (1 in 10 when accounting for NQTs qualified in England, returning to Northern Ireland) of NQTs resource a job (ie an "open job record" which equates to some reasonable time in employment, as opposed to a permanent position). The NITC does not believe that the proposals made in respect of the Common Funding Scheme will adequately address the needs of NQTs.

The NITC proposed a scheme, similar to the McCrone scheme in Scotland, for a 1st Guaranteed Year for a cadre of 200 NQTs per annum. This proposal, attached, has yet to be substantively discussed within the negotiating machinery, but NITC still considers this scheme to be a more substantive answer than the measures proposed.

The NITC proposal on NQTs is attached for information.

4. GENERAL COMMENTS:

LMS Funding: The NITC retains the view that tinkering in the manner proposed with the current LMS funding formula misses the point – that a fundamental review of school funding is required. The institution of a single education authority as the single employer of teachers brought forward the prospect of an appropriately managed workforce, including a “Managed Supply Pool” of supply teachers.

Supporting this proposal would go against the overall aim of NITC to maintain national parity in pay scales and the portability of pay between employers. Large numbers of supply staff were not working on this basis through choice, but because this was the only option open in the absence of available full or part time remunerated work. Our understanding is that teachers approaching retirement consider leaving full-time posts and opting for supply often do so to ease into retirement. Currently their level of pay is protected and therefore their pension is not adversely affected. This change could reduce the average salary for pension purposes for teachers and would therefore force teachers to remain in employment right up to retirement. Teachers leaving permanent posts early must be freeing up posts for new teachers to fill. As such the measures could be counter-productive.

Applying the rate to short-term substitution only may have the impact of preventing teachers from being released from school to attend CPD, educational visits or family commitments. It may not be possible to find a suitably experience teacher willing to substitute for a teacher at a lower salary rate.

5. THE PROPOSALS

There are 3 proposals:-

i. Reduce the ceiling for centre reimbursement costs from Point M4 to Point M3.

The aim of this proposal is to encourage schools to employ newly or recently qualified teachers as substitutes. Whilst it remains impossible for teachers to voluntarily accept a post at a lower pay spine then they are entitled this will exclude a large number of teachers from working as supply. If there were cuts in the school workforce as a result of the ‘austerity measures’ it would be wrong to exclude these teachers from seeking work in their chosen profession. We are also unsure that the use of NQTs for this purpose is educationally justifiable.

ATL rejects this proposal

ii. Make schools liable for the total cost when they employ a prematurely retired teacher but retain a central budget to assist schools in employing newly qualified or other non-retired teachers.

Superficially this appears to promote the employment of young/ newly qualified teachers. It presumes that these newly qualified teachers are actively seeking work in schools and are available at short notice. The experience of many schools is that newly qualified teachers are not readily available, having secured alternative short-term employment. This effect is enhanced in rural areas as many of the newly qualified teachers choose to

live in the Belfast area and are not available at short (½ hour) notice outside the city.

Additionally in many instances schools wish to employ experienced practitioners and those who have expertise in particular areas and subjects. That these schools will be financially penalised for a decision based on pupil needs is perverse.

Not all teachers who take premature retirement receive a pension which allows them to cease working altogether – this move would prevent teachers who have retired early from topping up their pension. For many teachers who ‘voluntarily’ retire there is no element of volunteering – they are forced to accept the retirement. It may also be contrary to the Employment Equality (Age) Regs (NI) 2006 to actively discourage the employment of an older group of potential employees – see Annex 1 below.

In addition, the DE are seeking to impose a flat rate salary for substitution cover provided by prematurely retired teachers who have received discretionary compensation. This could fall foul of Equal Pay 1970 legislation if a female teacher is undertaking the same role as a male teacher but receiving an artificially reduced salary. The NITPS contains a mechanism to limit the earnings potential of re-employed retired teachers and still retain their pension benefits.

Figures from the DE show that only 50 teachers retired with compensation last year. There are a total of 8,796 teachers receiving enhanced pensions in NI.

ATL opposes this proposal.

iii. Make schools liable for the cost of substitution from the point at which the absent teacher moves on to half pay, with the employing authority meeting the cost of the absent teacher’s salary.

The proposal is only reasonable in part. Schools should pay half of the cost of the sub from the time the absent teacher moves on to half pay. Certainly schools should not have to pay the full cost of the sub and half the cost of the absent teacher. This would put further pressure on stretched school budgets.

The inclusion in the DE letter of ‘provide additional encouragement to schools to pro-actively manage the return to work of the permanent teacher’ may fall foul of the Disability Discrimination Act 1995 or the Disability Discrimination (NI) Order 2006 if it is seen that teachers who have long periods of illness due to a disability are managed out of their employment.

ATL opposes this proposal

Annex 1 NOTE on Discrimination on grounds of Age
Discrimination on grounds of age from the Employment Equality (Age) Regs (NI) 2006

3.—(1) For the purposes of these Regulations, a person (“A”) discriminates against another person (“B”) if —

(a) on the grounds of B’s age, A treats B less favourably than he treats or would treat other persons, or

b) A applies to B a provision, criterion or practice which he applies or would apply equally to persons not of the same age group as B, but —

i) which puts or would put persons of the same age group as B at a particular disadvantage when compared with other persons, and

ii) which puts B at that disadvantage

and A cannot show the treatment or, as the case may be, provision, criterion or practice to be a proportionate means of achieving a legitimate aim.

(2) A comparison of B’s case with that of another person under paragraph (1) must be such that the relevant circumstances in the one case are the same, or not materially different, in the other.

(3) In this regulation—

(a) “age group” means a group of persons defined by reference to age, whether by reference to a particular age or a range of ages; and

(b) the reference in paragraph (1)(a) to B’s age, includes B’s apparent age.