

UPDATE ON TEACHERS PENSIONS ARREARS

Report of the Director of Children's Services

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1. Purpose

- 1.1 To outline how Teachers Pensions (TP) arrears have arisen.
- 1.2 To outline the steps taken by the Authority to identify these cases, and the rationale for recovering these arrears from schools.
- 1.3 To confirm the current state of play, including steps taken by the Authority to minimise the risk of putting schools into financial difficulties as a result of TP arrears.
- 1.4 To seek the support of Forum to the principles and approach to be followed with respect to the recovery of outstanding TPAs.

2 Background

- 2.1 TP arrears are due when employee (EES) and employer (ERS) contributions are not deducted and paid to Teachers Pensions, and the employee records do not include an opt-out form. This can occur for a number of reasons, including (but not limited to) the following:
 - Where a full time employee opts out of the pension scheme, the payroll provider is informed of this, but the employer fails to hold an opt out form;
 - Where a full time employee believes they have opted into the pension scheme, but this has not been communicated to the payroll provider¹. No opt out form has been completed;
 - Where a part time employee has elected to join the pension scheme with a previous organisation, but fails to notify the new employer of this election when joining.
- 2.2 The Authority became aware of a risk that contributions were not being collected in relation to employees who, Teacher's Pensions believed, had not

¹ There have been examples uncovered where an employee had previously opted out of the scheme, and subsequently opted in but only informed Teacher's Pensions directly. This had not been communicated with the payroll provider.

opted out of the scheme. Serco were commissioned to undertake an audit of both active and leaver teaching records where the employee was not paying into the Teachers Pensions scheme and identify cases of potential arrears of contributions.

- 2.3 For potential cases identified, a request was made to the employer/school to confirm if an opt-out form was available. Where the school was unable to confirm this, the details of the case were passed over to Teachers Pensions to confirm the employee was in the pension scheme (according to the records held by Teachers Pension), and calculate any outstanding arrears and compound interest owed.
- 2.4 The Authority has settled all arrears with Teachers Pensions at the earliest opportunity to stop compound interest accruing. Employer arrears and corresponding compound interest have been, or are in the process of being, recovered from schools as the employer of the respective teachers.
- 2.5 Responsibility for ensuing deductions are taken where applicable lies with both the employee and employer. The employee should ensure the correct adjustments are made on their payslip, and the employer should, as part of monitoring its expenditure, check their nominal roll, received each October.

2. Current position

- a. Since 2004, there have been over 30,000 new starters and leavers processed, with the vast majority processed without any issues. The cases in question date back largely to the first half of the last decade.
- b. The original investigations uncovered 283 cases at a value of £1.032m. To date, £536k has been recovered, with 73 cases fully resolved. The remaining £495k still to be recovered relates to 210 cases.
- c. The table 1 below summarises the current position:

Table 1: Summary of arrears cases

	Identified	Resolved	Outstanding
Arrears	£1,031,722	£536,185	£495,538
Cases	283	73	210

- d. Further details showing the number and value of cases within bands is provided in Appendix A.

3. Further Analysis

- a. From the remaining 210 cases where recovery is still due, just under 45% relate to balances under £250, as shown in table 2 below.

Table 2: Analysis of outstanding arrears

	Under £250	Over £250	Total
Arrears	£6,654	£488,884	£495,538
Cases	91	119	210

- b. Given the relative high recovery cost of these 91 cases as compared to the value of arrears, the Authority will review and make a decision on the recovery of these arrears on a case by case basis.
- c. Furthermore, the Authority recognises that in the case of supply teachers, who were employed directly by the Authority, responsibility for ensuring the correct deductions were made sits with the county council as the employer. For the remaining cases where the teacher was employed directly by the school, this responsibility is with the school as the employer. It should be noted that it is not easy to differentiate between “supply teachers” provided by the authority and those employed direct by schools.
- d. For the 119 cases where the amount outstanding exceeds £250, further analysis is currently underway to identify which of these relate to supply teachers. The Authority is proposing to assume responsibility for the compound interest with respect to these cases, with only the arrears to be recovered from schools.
- e. Where it is decided or necessary to meet the costs of arrears centrally, there is a remaining DSG provision available to meet the costs which is sufficient to cover the large part of the outstanding arrears. However, any part which is not required can be released back to support the wider schools budget.

4. Recommendations

a. Principles to be applied

In deciding what to do a number of clear principle and conclusions have been applied:

1. It is neither practical not productive to seek to establish at such a distance of time who was “to blame” for the development of arrears. Some were simply unavoidable. In the others the development of arrears required several different people/systems all to fail to work effectively – which in part is why arrears cases are such a tiny proportion of all the cases/staff within the teachers’ pension system.
2. Having said that, there is still merit in seeking to find existing documentation substantiating “opt outs” and confirming the employer of

staff with arrears. Some of the cases above are in process of resolution with teachers Pensions.

3. Where arrears have developed, even if they are only discovered well after the event, the school which benefitted from the services provided by the teacher should generally bear the costs of this and thus meet the costs of the arrears, rather than the costs being spread across all schools. This is reinforced by the extent to which some cases have already been settled by schools in this way, and by the way we deal with the continuing and inevitable flow of errors that take place within the payroll and pensions systems.
4. But where these unexpected and unforeseen costs place a school in financial difficulties then it is right to provide central support as we do in other cases where schools are placed in financial difficulties for other reasons beyond their control.
5. Taking into consideration these principles and feedback from a number of schools who have received notifications of TP arrears recently, as well as further discussions within the management team of the Authority, the following actions are proposed:

b. Recovery of TP arrears

1. To allow schools until 31 March to investigate these cases, thereby providing further opportunities to schools to confirm if any supporting evidence (in respect to opt-out from the TP scheme) is available.
2. Schools will need to respond to the Schools Finance Team by 31 March if they have a dispute/query with this recovery, outlining the reasons for the dispute/nature of the query, and setting out if settling the arrears will place them in financial difficulty. A decision will be made on these on a case-by-case basis.
3. The Schools Finance Team will assume consent to the recovery of arrears, unless they are notified of a dispute/query.
4. For cases where agreement of recovery has already been reached, these will be processed and recovered from schools through BISCUIT by 18/19 March.
5. For all other cases recovery of arrears will take place during May.

c. Arrears under £250

1. The Authority will review and make a decision on the recovery of arrears under £250 on a case-by-case basis, bearing in mind the need to avoid disproportionate administrative costs.

d. Supply Teachers

1. The Authority will undertake further analysis to identify cases involving supply teachers.
2. The Authority will assume responsibility for the compound interest with respect to these cases.
3. Arrears relating to supply teachers will be recovered from schools as per section 5.2

6. Conclusion

- The Forum is asked to agree the principles set out in paragraph, above, and support the proposed actions.
- Forum may want to comment on the circumstances in which it believes arrears of contributions should be met centrally for schools in financial difficulties.

Appendix A

Cases and Value of Arrears by Band

Band	Cases	Amount
Under £3k	160	£95,662
£3k to £5k	22	£89,769
£5k to 10k	21	£155,848
Over £10k	7	£154,259
Total	210	£495,538