

## Collective Bargaining in the Independent Sector

NEU Briefing September 2019



This briefing is to aid NEU members in the independent sector to negotiate on pay. It might also be relevant to some members working in further education (FE), or academies, where there is collective bargaining.

Pay is a fundamental term of employment. The NEU believe that members should have the right to negotiate their pay, not just consulted or informed.

*Meaningful consultation* is based on having all the relevant information, in good time, to enable staff to ask pertinent questions and to make informed decisions.

*Meaningful negotiation* is based on having all the relevant information, in good time, to enable staff representatives to discuss matters with employer representatives *with the aim of reaching agreement*.

### Strength in numbers

As trade union members, we know from experience that our interests are best served by acting collectively. Union membership and pay bargaining enhances pay – and it is not just us who say it.

Andrew Haldane, chief economist at the Bank of England, stated in June 2017:

“...there is a clear wage premium associated with trade union membership”.

Employees have the legal right to collective representation and to negotiate their main terms and conditions, under the Trade Union and Labour Relations (Consolidation) Act 1992, as amended by the Employment Relations Act 1999.

The NEU recommends that members should consider securing collective rights through the recognition of the union. Recognition is a statutory right, providing a majority are in favour – see NEU guidance on trade union recognition <https://neu.org.uk/advice/trade-union-recognition-independent-sector>

Regardless of whether you enjoy statutory collective rights, the NEU recommends that members submit a pay claim. It does not need to be sophisticated, as being proactive changes the dynamic and can make an impact.

Some schools link pay to the state sector, often paid at a premium, in which case you will be indirectly represented in the NEU negotiations with the government.

## **Follow the Bank of England's steer – *get organised!***

Members should meet to discuss pay, determine priorities and set a plan of action. Individuals will have their own ideas, partly reflecting the school's circumstances.

The following checklist can aid the discussion:

- Does your school have a pay policy? Does it need improving?
- Are the structures dealing with pay effective?
- Can staff influence the budget-making process?
- Do you have negotiating rights? If not, consider recognition of the NEU.
- Does the employer provide enough information to staff?
- What is the strength of staff feeling?
- Are there other pay-related issues, eg maternity/paternity leave and pay?
- How strong is the NEU collective voice?
- Look to strengthen the staff's voice by recruiting more colleagues into the NEU.
- Identify leverage. What can you do to influence the employer?
- What is the best way to involve colleagues?
- Consider setting up a NEU rep email group to exchange pay information.

## **Pay deal components**

It is important that NEU members submit a pay claim. Some things to consider:

- cost of living
- recruitment and retention
- motivation and morale
- performance
- profitability
- affordability
- the market

## **Cost of living**

The NEU believes that any cost of living increase below inflation, as measured by the Retail Price Index (RPI), is in effect a cut in living standards. It is not the only part of annual salary negotiations but can often be the most significant aspect.

## **Recruitment and retention**

These are critical issues for any employer. Education is a people business and the key to success is recruiting and retaining high quality staff. Parents expect high quality staff and a consistency of staffing.

With pupil numbers increasing at the same time as teacher numbers decreasing, Ofsted has warned of a teacher recruitment crisis in England and Wales. Fewer graduates are being attracted to the profession, as pay has fallen in real terms for the past ten years. The retention rate continues to deteriorate with more than one in four newly qualified teachers leaving within three years.

## **Shortage of teachers and support staff in independent schools**

Some independent schools are experiencing problems recruiting, particularly in maths, science and languages, and in support staff areas. NEU school reps report problems finding suitable candidates for teaching diplomas and middle years International Baccalaureate.

Part of the problem is that salaries have not kept pace with inflation, since the crash in 2008 and subsequent public austerity.

Current proposals to withdraw from the Teachers' Pension Scheme (TPS) is a ticking timebomb. For instance, NEU members in Oxford have recently been on strike over the issue. It is a deal breaker for many: in the *2011 independent sector pay and conditions survey*, 50 per cent of respondents stated that they would not work in a school that did not offer the TPS.

Other issues include:

- ever-increasing workloads mean that many teachers are retiring early
- modern languages have been adversely affected by Brexit – the perception that

Britain is less welcoming to foreigners has adversely affected the availability of both language teachers and teaching assistants

- property prices mean it is difficult for young teachers to get on the property ladder.

## **Motivation and morale**

These considerations affect pay offers. Regardless of the economic situation, private sector employers have been historically unwilling to offer low pay awards for the fear of appearing mean.

## **Performance**

There is an economic imperative why independent school employers should collectively remunerate staff well – the continued success of the business. Staff performance makes a school successful.

Asked what makes a successful independent school, Barnaby Lenon, chairman of the Independent Schools Council, said: "Above all, it is the hard work of the talented staff.... both teaching and non-teaching staff."

Richard Cairns, head teacher of Brighton College, has said that independent schools attract outstanding teachers by offering enhanced terms and conditions, and smaller class sizes. "These cost money and, inevitably, this is reflected in higher fees. Any school that thinks it can stint on teachers' salaries and class sizes while still offering a first class education is kidding itself," he said.

## **Profitability**

Profitability of the school will determine how the employer can afford to reward staff. If the school is sufficiently profitable, staff should receive at least an award to match inflation. If not, they may have to accept less.

## **Affordability**

This is sometimes cited by employers to deny a proper cost of living award when, more often, it is a matter of priorities. Usually, money is available but the employer would prefer to spend it on something else.

If the employer argues they cannot afford an award that matches inflation, it is not unreasonable to ask to see the figures. Only very limited information is commercially sensitive. Most independent schools are registered charities, with accounts in the public domain on the Charity Commission website at: [gov.uk/government/organisations/charity-commission](http://gov.uk/government/organisations/charity-commission)

The right of disclosure of relevant information is a statutory right of employees where their nominated trade union is recognised. Even if you do not enjoy this statutory right you could make a request in line with the ACAS (Advisory, Conciliation and Arbitration Service) guidance available at: [m.acas.org.uk/media/273/Code-of-Practice---Disclosure-of-information-to-trade-unions/pdf/11287\\_CoP2\\_Collective\\_Bargaining\\_v1\\_0\\_Accessible.pdf](http://m.acas.org.uk/media/273/Code-of-Practice---Disclosure-of-information-to-trade-unions/pdf/11287_CoP2_Collective_Bargaining_v1_0_Accessible.pdf)

## **Market rate**

This can also affect what is offered. It may be the local market of competitor schools, the state sector or general private sector.

### **Bargaining and total reward**

Bargaining can take the form of different forms of reward. While the headline percentage salary increase is often the most important, there are many other areas of reward and employee benefit. Examples include:

- flexible working
- improved family-friendly policies
- enhanced benefits such as sick or redundancy pay
- training provision
- reducing qualifying time for enhanced benefits.

For example, NEU reps in one HMC (Headmasters' and Headmistresses' Conference) school negotiated a cost of living increase that matched the RPI, as well as a significant enhancement of maternity provision from the statutory minimum.

## **Lump sums rather than percentage increases**

Another approach to collective bargaining is to combine percentage increases with minimum lump sums. This can benefit the low paid because a percentage figure increase can often be very low.

Be wary of unconsolidated lump sums, as they are paid on a one-off basis and not added to your basic pay for future pay increases or pension contributions.

## **The living wage**

NEU recommends that members consider including the request that the employer pays the living wage, as set by the Living Wage Foundation. This can make a significant difference to our lowest paid members, catering and cleaning staff. The living wage seeks to ensure that people have enough money to live on. It is calculated according to the basic cost of living in the UK. An hourly rate is set independently and updated annually in November. From November 2018, the rate is £10.55 per hour in London and £9.00 in the rest of the UK.

Low pay is a problem in all sectors but the contrast in the independent sector can be stark, with members being paid less than half the annual school fees.

NEU reps successfully negotiated the first living wage agreement in the independent sector. All staff employed in the 24 independent schools run by the Girls' Day School Trust (GDST) are paid the living wage as a minimum. GDST is now an accredited living wage employer. This collective agreement extends to external contractors should any school provision be contracted-out.

The living wage enjoys cross-party support. Many companies are convinced that showing their employees that they value them and treating them fairly has benefits not only to the workforce, but to the company itself.

## **National minimum wage and the new national living wage**

In April 2016, the Government introduced a new statutory minimum, the national living wage (NLW) for ages 25 and over. From April 2019, the NLW rate is £8.21 per hour. For employees aged between 21 and 24, the minimum wage is £7.70.

Cost of living as measured by the Retail Price Index  
Inflation, as measured by the RPI, stood at 2.9 per cent for the year up to June 2019. RPI was introduced in 1947 by the government to assist employers and employees in negotiations over salary increases to reflect rising costs. It has been the traditional measure of inflation used by employees and employers.

More recently, the government has championed the Consumer Price Index (CPI), arguing it is more easily comparable index internationally. However, CPI is generally lower, as among other things, it omits housing costs which is clearly a significant cost factor in the UK. CPI inflation was two per cent for the year up to June 2019. However, the government uses RPI for its own purposes for index-linked securities and gilts, non-means tested benefits, tax allowances, social housing rent increases, train fare increases and student loan interest rates.

RPI and CPI are updated monthly by the Office for National Statistics (ONS) – see the website at: [www.ons.gov.uk/economy/inflationandpriceindices](http://www.ons.gov.uk/economy/inflationandpriceindices)

RPI 12-month inflation rate (%)
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Jun 2018	Jul 2018	Aug 2018	Sep 2018	Oct 2018	Nov 2018	Dec 2018	Jan 2019	Feb 2019	Mar 2019	Apr 2019	May 2019	Jun 2019
3.4	3.2	3.5	3.3	3.3	3.2	2.7	2.5	2.5	2.4	3.0	3.0	2.9

Over the longer term, RPI inflation is forecast to remain around three per cent until at least 2023, according to the Office for Budget Responsibility (OBR).

Long-term inflation forecasts (OBR)					
	2019	2020	2021	2022	2023
RPI	2.9	2.8	3.0	3.1	3.1
CPI	2.1	1.9	2.0	2.0	2.0

The 2019 Independent Schools Council (ISC) census reported an overall growth in pupil numbers to a record high 536,109.

If the school is doing well, staff should be rewarded with a cost of living award that at least matches inflation. Otherwise staff living standards fall in real terms.

### **Playing catch-up**

A pay claim could include an element to catch up on previous years' below inflation rises. The annual NEU independent sector pay and conditions survey consistently reveals that the majority received an annual increase of less than inflation.

Teachers in state schools in England and Wales have lost some 15 per cent in real terms since 2010. TUC analysis shows that between 2007 and 2015 UK wages fell by 10.4 per cent – a drop equalled only by Greece.

How can we seek redress? Submit a pay claim.

### **Increased employer contributions to the Teachers' Pension Scheme**

From September 2019, the employer's contribution rate for the Teachers' Pension Scheme (TPS) increased from 16.4 to 23.6 per cent. This is a significant increase. The TPS is also a significant part of many teachers' pay and remuneration. Pension is deferred pay. NEU members in many independent schools have successfully argued against employer proposals to leave the scheme. If there is a proposal to leave the scheme in your school, read the NEU guidance on protecting your TPS, available at: [neu.org.uk/protecting-independent-school-teachers-pensions](http://neu.org.uk/protecting-independent-school-teachers-pensions)

If your employer uses the increased cost to justify a low increase, it is worth noting that for the past ten years or so, fee increases have comfortably outstripped wages and that surplus should have been put aside.

### **Benchmarking against the state sector**

The School Teachers' Review Body (STRB) has recommended, and the Government has indicated it accepts, an uplift of 2.75 per cent to the minima and maxima of all school teacher pay and allowance ranges. Most academies replicate school teachers' pay awards.

Most school support staff received a two per cent increase in April 2019. Some lower-paid staff received a larger increase as part of a restructure of the pay scale.

### **The indices of a financially healthy independent school**

To collective bargain effectively, you need to know the general financial position of your employer. When an employer says that they cannot afford a higher increase, often it is that they would prefer to spend the money on something else.

There are various pointers to the health of an independent school, though every situation is different. To avoid drawing conclusions from minor variances it is advisable to look at trends, so request information from over a period, for example of five years.

### **Total income and expenditure**

The biggest item on a school's budget is staffing costs. The Independent Schools Council (ISC) estimates that the average independent school spends approximately 65-70 per cent of income on salaries. If your school spends significantly less, there might be money available.

### **Pupil numbers**

Rising pupil numbers is a healthy sign. A dip in numbers may not mean that the school cannot afford a cost of living award as lean years should be offset with fat. A fall in pupil numbers might also have been offset by a fall in staff numbers.

### **School fees outstrip wage increases**

For a considerable number of years, the average increase in school fees has comfortably outstripped wage increases and RPI. The ISC census 2019, reports the average increase in school fees between 2017 and 2018 was 3.7 per cent.

### **Synchronising your pay claim with the financial cycle of the school**

NEU members should be looking to submit a pay claim around February for the following September to maximise the chance of influencing the budget. The financial year follows the academic year and budgeting begins in February. With entrance exams in January and offers in February, the school will get a sense of numbers by the beginning of March. The finance committee consider the draft budget at the end of February/beginning of March, ahead of the main board before Easter.

Parents must give a term's notice to remove a pupil. The quid pro quo is that the school gives a term's notice of fee increase, published at Easter. This is either a set amount or a guide, eg that the increase will not be more than x per cent.

If collective bargaining is conducted later, there is still scope for negotiation, as it is likely that a prudent budget will have been set. This will include provision for a pay

increase, and contingencies to allow for variables or unforeseen expense. General budget heads will often be set providing further room for manoeuvre.

Salaries for teachers have around 37 per cent on-costs, composed of National Insurance contributions of 13.8 per cent and pension 23.6 per cent (TPS). So, a cost of living increase for teachers of say, three per cent, equates to an increase of 3.9 per cent for the school budget. For support staff the on-costs are less, reflecting a less generous pension.

Salary budgets vary and one factor is the age of the staff. There is a correlation between the age of the pupils and the age of the staff. This is reflected in salaries, with the lowest in the pre-prep sector and the highest salary cost per capita in senior schools.

### **Other sources of finance apart from fees**

Some schools have sources of income other than fees. This includes fundraising from parents, alumni, local business etc; summer schools and after-school clubs; letting facilities, for example, for weddings or sports activities.

### **Reserves and surplus**

The Independent School Bursars Association (ISBA) recommends that a term's money is held in reserve. Many schools have much less. The ISBA recommends that a school aims to run at an annual ten per cent surplus, though this is far from universal.

### **Contacts**

Every NEU regional office has a senior regional official for bargaining who can offer local advice. Find details at: [neu-org.uk/contact-us](http://neu-org.uk/contact-us)

For general advice on pay claims, contact John Richardson, NEU national official independent sector, at [John.Richardson@neu.org.uk](mailto:John.Richardson@neu.org.uk)

### **Further information**

Information on pay, including the annual NEU pay and conditions survey of members working in the independent sector can be found on the NEU website at: [neu.org.uk](http://neu.org.uk)

Other NEU advice, available on the website, includes:  
Working in the Independent sector – information on pay and recognition. The guide is free to members.

Starter for ten: collective bargaining – the ideal starting point for busy members working in the independent sector.

Pay toolkit – contains a range of materials to help reps/members in all sectors on common pay issues but also includes a model policy on pay.