

NEU GUIDE TO SOULBURY

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This NEU briefing gives advice on pay, conditions of service and other matters for Soulbury employees. It tells you how Soulbury pay and conditions compare to those for teachers and for local government employees generally and sets out why, as a Soulbury officer, you should join or remain in membership of the NEU.

You can find more information for Soulbury members on the NEU website at <https://neu.org.uk/advice/soulbury-officers>.

WHAT IS SOULBURY?

The Soulbury Committee is the national negotiating body which determines the pay and conditions for education professionals employed in central local authority services, including educational improvement professionals, educational psychologists and managers of young people's or community services. Soulbury arrangements are used by many voluntary and private sector organisations as well as by local authorities. Although there is no legal requirement to use Soulbury arrangements, the NEU strongly supports their use unless the nature of employees' work requires the use of teachers' terms and conditions instead. It is rarely appropriate for qualified teachers working in central education-related services to be employed on any other pay and conditions arrangements.

THE NEU AND SOULBURY

Any teacher or education professional who takes up Soulbury-paid employment is entitled to join the NEU or remain in NEU membership. The NEU is the largest teachers' organisation in Europe and is not affiliated to any political party, so it can speak freely and independently on its members' behalf.

The NEU provides the Leader and Secretary of the Officers' Side of the Soulbury Committee, leading the national negotiations on behalf of Soulbury-paid officers.

NEU support for its Soulbury-paid members also includes:

- a network of experienced and qualified staff, including a solicitor in each of its offices throughout England and Wales, for professional and legal advice and support;
- a highly regarded professional development programme and other benefits; and
- perhaps most importantly, the ability to exert influence on issues of importance to members such as pay, pensions and professional and educational policy matters.

The NEU is the only teachers' union represented on the Soulbury Committee and involved in negotiations on Soulbury pay and conditions.

THE ROLE OF SOULBURY OFFICERS

Soulbury-paid officers carry out a wide range of responsibilities but collectively make a crucial contribution to the range and quality of local authorities' educational provision.

Educational improvement professionals (EIPs) are traditionally recruited from senior teachers and school leaders, and provide advice and support to local authorities and schools

on educational, organisational and other issues. They may work strategically with school leaders, including as school improvement partner, or offer support and advice at other levels.

Educational psychologists (EPs) work in close liaison with teachers, parents and other agencies to provide assistance and assessments for young people. They also help manage authorities' SEN provision and work with schools and teachers to advise on individual cases.

Young people's service managers and community service managers (YPCSMs) manage and organise local authority provision for young people and the community, including much formal and informal education-related provision, and also give advice on a range of issues.

The Soulbury Report includes job outlines and descriptions for the various categories of Soulbury officer. Individual job descriptions should broadly match the contents of this guidance.

SOULBURY PAY

The Soulbury Report national agreement provides the following:

- a single pay spine for educational improvement professionals;
- two separate pay scales for EPs, as well as pay scales for trainee for unqualified assistant EPs; and
- a single pay spine for young people's/community service managers.

EIPs are paid on pay scales of not more than four consecutive points taken from their 50-point pay spine. The Report prescribes normal minimum entry points for specific groups. Scales can be extended by up to two further discretionary scale points to reflect individual additional duties or recruitment/retention considerations.

YPCSMs are also paid on pay scales of not more than four consecutive points taken from their pay spine, with similar provisions for discretionary scale points.

Senior and Principal EPs are paid on EP Scale B and are again paid on pay scales of not more than four consecutive points taken from that scale. Other qualified EPs are paid on EP Scale A and are paid on a six point pay scale taken from that scale. Discretionary scale points are available on Scale B but not on Scale A.

There is no requirement to use job evaluation to determine the pay level or pay scale for Soulbury officers. The NJC for Local Government Services job evaluation scheme is, in the view of the NEU and other Soulbury unions, often not appropriate for Soulbury posts unless the level of specialist knowledge and senior strategic experience often required of Soulbury officers is properly taken into account and reflected in the evaluation outcome. Market supplements are often necessary to recruit and retain when this scheme is used.

All Soulbury officers have access to additional pay progression under the Structured Professional Assessment (SPA) system, permitting progression by up to a further three spine points based on local assessment against nationally prescribed criteria.

The pay package for Soulbury officers (other than Scale A EPs) therefore consists of a four-point scale, possibly extended by one or two discretionary points, with the entitlement to be assessed for a maximum further three points under the SPA system. Detailed NEU advice on the SPA system is available separately.

Pay progression under the Soulbury Report is an automatic service based entitlement - paragraphs 8.1 and 8.2 state that Soulbury officers "are to receive their annual increment" on the relevant date each year. Local authorities should not apply "competency based"

systems for pay progression on Soulbury pay scales. The date for incremental pay progression is 1 September for EIPs and EPs and 1 April for YPCSMs.

The normal implementation date for the nationally negotiated annual pay increase for Soulbury officers is 1 September each year.

SOULBURY CONDITIONS OF SERVICE

Paragraph 10.1 of the Soulbury Report provides that *“the conditions of service of officers dealt with under this report shall be not less favourable than those prescribed for the local government services staff of the authority”* (usually set out in the “Green Book” NJC for Local Government Services national agreement, while applies to the large majority of other local authority professional and administrative employees, and any local agreements).

The key phrase is *“not less favourable”*. Their conditions do not have to be identical and better conditions can apply by local agreement. They cannot, however, be less favourable.

Working Time and Annual Leave

Annual leave under the Green Book scheme is a minimum of twenty days with an additional five days after five years’ continuous service plus two extra days to meet statutory entitlements. It also provides for paid leave of absence for various purposes (eg jury service, public duties) and family-friendly leave such as maternity support leave for partners or carers of expectant mothers. Entitlements can be higher in individual local authorities.

Soulbury officers should have no less favourable entitlements to annual leave and in some authorities their leave entitlements may be greater than for other local authority employees. The Soulbury Committee has issued joint guidance to employers that they should not “restrict unreasonably” requests for leave from Soulbury officers during term time.

The standard working week under the Green Book scheme is 37 hours for full-time employees (36 in London). In practice, however, most Soulbury officers work in excess of those hours and may encounter difficulty in accessing time off in lieu.

Soulbury officers are not covered by the STPCD working time provisions for school teachers (195 days per year). For comparative purposes, however, assuming 25 days’ annual leave and 12 days’ public holidays and additional closure, for example, Soulbury officers would have an annual working time obligation of around 224 days per year.

Notice Periods

Notice periods for Soulbury paid officers depend on the employer and the post and will be set out in their individual contracts. Notice given by the employer in case of dismissal cannot be less favourable than the legal minimum of one week per year of service rising to 12 weeks after 12 or more years.

There is therefore no national provision comparable to the provisions for teachers which require a minimum period of notice terminating at the end of the term and therefore create an effective “resignation date” each term.

Sick Leave and Pay

The Green Book sickness scheme starts at one month at full pay plus, after 4 months’ service, 2 months at half pay and increases annually to, after 5 years, 6 months at full pay and 6 months at half pay. The “rolling year” basis of the scheme means that the entitlement at the start of any absence reflects any absence during the previous twelve months.

This compares to the school teachers' Burgundy Book scheme which starts at 25 working days at full pay and, after four months' service, 50 working days at half pay and increases annually to, in the fourth and subsequent years, 100 working days at full pay and 100 at half pay. An entirely new and complete annual entitlement starts on 1 April each year.

Maternity Leave and Pay

The Green Book maternity scheme is very similar to the combined benefits available under the Burgundy Book and statutory maternity schemes to school teachers. In both cases, entitlements can be higher in individual authorities due to local agreements.

Continuity of Service

Where employees join Soulbury-paid employment from teaching for the first time, the Soulbury and Green Book agreements provide that previous continuous local government service, including teaching service, is counted for sick pay, maternity pay and annual leave purposes, so that they do not need to build up new qualifying service. Statute law (the 'Modification Order') provides that any redundancy payments will be calculated on the basis of all such service as well. It will, however, be necessary to build up 2 years' employment with the new employer to exercise the statutory right to complain of unfair dismissal.

Where Soulbury officers move to posts with other authorities, the above provisions again mean that their service is treated as continuous and they do not lose any entitlement to sick pay, maternity pay, annual leave or redundancy payments, but they will again need to build up the necessary service to exercise the right to complain of unfair dismissal.

The above do not apply to anyone entering employment with a non-local government employer using Soulbury terms and conditions. However, where the change of employer is due to a transfer of employment covered by TUPE arrangements, continuity of service can be maintained as if there had been no change of employer, and the Soulbury Report provides that any such employee who subsequently returns to local government service without any other break in employment will have their service with such employers treated as continuous for contractual benefits (sickness and maternity leave and pay and annual leave) provided that the return is within five years of the original transfer.

Redundancy and Premature Retirement

Authorities operate widely differing redundancy, voluntary severance and PRC schemes and the terms on offer beyond statutory entitlements vary substantially from authority to authority.

Car User Allowances

These can be an issue of significance for Soulbury officers due to the extent of their travel in their personal vehicle. The Soulbury Committee has adopted the Green Book scheme and has issued joint advice to employers, available on the NEU website, which seeks to ensure that Soulbury employees are treated fairly on matters such as the definition of essential and casual car user.

SOULBURY PENSIONS

Soulbury paid officers are eligible for membership of the Local Government Pension Scheme (LGPS). They are not entitled to remain in membership of the Teachers Pension Scheme (TPS) on taking up Soulbury paid employment.

The LGPS and TPS schemes are similar in that they are both 'defined benefit' pension schemes, although the LGPS, unlike the TPS, is a funded scheme where pension contributions are invested and assets held to pay pensions.

The LGPS is, like the TPS, now a 'career average' scheme where pension is based on the total pay earned over an individual's whole tenure within the scheme. The scheme provisions and contribution rates are different for the two schemes.

The NEU does not provide individual financial advice but the NEU's position is that generally speaking, the vast majority of TPS members moving to Soulbury paid employment will almost certainly receive better pension benefits from joining the LGPS than from other provision for which no employer's contribution would be received. Anyone considering the transfer of existing pension benefits from the TPS to the LGPS should seek individual and independent financial advice, particularly if you do not intend to remain in Soulbury paid employment on a long term basis, given the complicated provisions for calculating equivalent benefits in the LGPS following such a transfer.

Further guidance on the LGPS is available on the NEU website at <https://neu.org.uk/advice/2014-local-government-pension-scheme>.

OTHER ISSUES

Continuing Professional Development

The Soulbury Committee strongly believes that it is in the interests both of Soulbury officers and their employers that an appropriate ongoing CPD programme exists for all officers. The Soulbury Report sets out a nationally recommended CPD framework to assist local authorities with putting in place a local CPD programme for Soulbury employees.

Work Life Balance and Work Related Stress

The Soulbury Report also contains guidance on work life balance and work-related stress which highlights the need for employers to address these issues, endorses various sources of advice for employers and setting out a list of action points for employers.

Soulbury Joint Consultative Committees

The Soulbury Report advises at paras 11.1-11.2 that local authorities should fully recognise the unions represented on the national Soulbury Committee and ensure consultation and facilities for their representatives.

Joint Consultative Committees (JCCs) are a common mechanism for consultation at local authority level. The NEU recommends that Soulbury representatives should be included in the local authority JCC or a specific Soulbury JCC and has produced guidance and a model constitution which is available upon request from NEU headquarters.

Local Appeal Machinery

The Soulbury Report provides officers with recourse to local grading appeals machinery for pay grading and pay assessment disputes and for other disputes. It also provides a local consultation and facilities agreement and a grievance and collective disputes procedure.

Job Evaluation Schemes

The Soulbury associations have a number of concerns about job evaluation processes as applied to Soulbury officers. The Soulbury Report does not contain any provisions in respect

of job evaluation. Local authorities are not directed to carry out job evaluations in order to guide their choice of pay scales from the pay spines provided in the Soulbury Report. Some authorities do, however, undertake job evaluations in order to provide some form of comparability checking between their Soulbury paid officers and those employed on NJC Green Book or other arrangements.

The principal concern is that the job evaluation schemes in most common use do not adequately cater for evaluation of autonomous specialist and professional roles of the kind undertaken by Soulbury officers. Their limitations with regard to such roles, which lead to low or under-weighted scoring, derive in particular from the fact that they are being applied to groups for whom they were not specifically designed or agreed to be used. Employers need to understand and be made aware of the limitations and inadequacies of existing job evaluation schemes with regard to Soulbury officers, and consider appropriate alternative approaches.

RELATIONSHIP BETWEEN STPCD AND SOULBURY ARRANGEMENTS

Advice is often sought from the NEU by local authority employees on whether they should be employed on school teachers' pay and conditions rather than Soulbury arrangements.

There are some circumstances in which the employer will be legally required to use STPCD arrangements for employees. In brief, where an employee falls within the statutory definition of a "teacher", by carrying out "specified work" including in particular face-to-face teaching contact with pupils, the terms of the STPCD must apply to that person. They cannot be employed on other arrangements such as Soulbury, regardless whether they are already purportedly employed on such arrangements or have accepted such arrangements.

It is not necessary for postholders to work as teachers based in schools in order for them to be statutorily subject to the STPCD. Postholders such as "advisory teachers" or group leaders/tutors in outdoor education centres may well undertake work which makes them statutorily subject to the STPCD.

There is no accompanying statutory requirement to apply the Burgundy Book or other locally agreed conditions of service for school teachers in such cases. Where the STPCD's provisions apply statutorily, however, there would be little sense in employers not applying the other conditions of service for school teachers as well.

The difference between Soulbury and school teachers' pay and conditions are set out earlier in this briefing. Particular note should be taken of the different working time obligations and annual leave entitlements. The NEU opposes the use of Soulbury by employers solely in order to secure different working time obligations.

FURTHER ADVICE AND ASSISTANCE FOR NEU MEMBERS

Soulbury-paid members of the NEU should in the first instance contact the NEU AdviceLine for advice and information at <https://neu.org.uk/employment-advice>.