BATOD advice on the allocation of TLR and SEN payments

TLR Payments

There are conditions under which a Teacher of the Deaf can be awarded a TLR allowance. In determining whether a TLR allowance should be awarded, Senior Managers should have regard to the relevant section of the School Teachers Pay and Conditions (STP&C) 2011. A teacher of the Deaf may only be awarded a TLR point when the post holder is required to manage a significant number of staff. The term significant is not specified. Key to awarding a TLR point is management of staff, and having an impact on the educational progress of pupils other than the teacher’s assigned classes or groups of pupils. This will not be available to teachers of the deaf who work specifically (and only) with deaf pupils. However, there is some latitude in the determination of an award of a TLR point and management of a significant number of staff is often a feature of a teacher of the deaf who manages a hearing support facility (Unit).

The relevant section of the School Teachers’ Pay and Conditions Document 2011 and Guidance on School Teachers’ Pay and Conditions is:

Allowances for classroom teachers

Teaching and learning responsibility payments

21 The relevant body may award a TLR to a classroom teacher for undertaking a sustained additional responsibility in the context of their staffing structure for the purpose of ensuring the continued delivery of high-quality teaching and learning and for which the teacher is made accountable. The award may be while a teacher remains in the same post or occupies another post in the absence of a post-holder, in accordance with and subject to paragraph 3, and paragraphs 22 and 23.

22 Having decided to award a TLR, the relevant body must determine whether to award a first TLR (“TLR1”) or a second TLR (“TLR2”) and its value, in accordance with their pay policy, provided that-

(a) the annual value of a TLR1 must be no less than £7,323 and no greater than £12,393;

(b) the annual value of a TLR2 must be no less than £2,535 and no greater than £6,197; and

(c) if the relevant body awards TLRs of different annual values to two or more teachers, the minimum difference in the annual value between each award of a TLR1 is £1,500 and between each award of a TLR2 is £1,500.
23.1 Before awarding a TLR the relevant body must be satisfied that the teacher’s duties include a significant responsibility that is not required of all classroom teachers and that-

(a) is focused on teaching and learning;

(b) requires the exercise of a teacher’s professional skills and judgement;

(c) requires the teacher to lead, manage and develop a subject or curriculum area; or to lead and manage pupil development across the curriculum;

(d) has an impact on the educational progress of pupils other than the teacher’s assigned classes or groups of pupils; and

(e) involves leading, developing and enhancing the teaching practice of other staff.

23.2 In addition, before awarding a TLR1, the relevant body must be satisfied that the significant responsibility referred to in paragraph 23.1 includes line management responsibility for a significant number of people.

SEN Allowances

From September 2010 SEN allowances changed from a two point scale to a continuous scale. Previous to September 2010, teachers were awarded either one SEN point or two. The values were as follows

<table>
<thead>
<tr>
<th>SEN1</th>
<th>£2001</th>
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<tbody>
<tr>
<td>SEN2</td>
<td>£3954</td>
</tr>
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</table>

The new continuous scale sets a minimum and maximum value for the SEN allowance. The minimum and maximum values are:

<table>
<thead>
<tr>
<th>Minimum</th>
<th>£2001</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maximum</td>
<td>£3954</td>
</tr>
</tbody>
</table>

Whilst there is no difference between the old SEN 1&2 and the max/min levels of the new continuous scale, the new scale gives the opportunity to pay between the points of the old SEN1&2. The government have also provided new criteria for the award of an SEN allowance to assist Heads and Governors in determining the amount of SEN allowance to award. In the School Teachers Pay and Conditions document this is referred to as the ‘spot value’.
A teacher who is currently SEN1, and retains the allowance under the new criteria, will not be paid below that amount (£2001). However, a teacher who had received SEN2 could have this amount reduced under the new criteria. There is no option to increase the SEN allowance above the old SEN2 (£3954).

The relevant section in the STP&C document is:

25.1 A SEN allowance of no less than £2001 and no more than £3954 per annum is payable to a classroom teacher in accordance with this paragraph.

25.2 The relevant body must award a SEN allowance to a classroom teacher-

(a) in any SEN post that requires a mandatory SEN qualification;

(b) in a special school;

(c) who teaches pupils in one or more designated special classes or units in a school or, in the case of an unattached teacher, in a local authority unit or service;

(d) in any non-designated setting (including any PRU) that is analogous to a designated special class or unit, where the post -

(i) involves a substantial element of working directly with children with special educational needs;

(ii) requires the exercise of a teacher's professional skills and judgement in the teaching of children with special educational needs; and

(iii) has a greater level of involvement in the teaching of children with special educational needs than is the normal requirement of teachers throughout the school or unit within the school or, in the case of an unattached teacher, the unit or service.

25.3 Where a SEN allowance is to be paid, the relevant body must determine the spot value of the allowance, taking into account the structure of the school's SEN provision and the following factors-

(a) whether any mandatory qualifications are required for the post;

(b) the qualifications or expertise of the teacher relevant to the post; and
the relative demands of the post.

25.4 The relevant body must set out in its pay policy the arrangements for rewarding classroom teachers with SEN responsibilities.

25.5 Where a teacher is in receipt of a SEN allowance awarded under an earlier Document, the relevant body must—

(a) determine whether the teacher remains entitled to a SEN allowance in accordance with sub-paragraph 2; and

(b) if so, determine the amount of that allowance in accordance with sub-paragraph 3.

The government has issued guidelines to assist Heads and Governors in determining whether a Teacher should be awarded a SEN allowance and how much it could be. The guidance is fairly broad and the amount awarded can vary depending on the school’s published pay policy. The pay policy will indicate which teaching posts will receive an allowance and why. The guidelines were issued as an appendix to the STP&C document in 2010 and are set out below:

**Appendix A**

New Criteria for Award of SEN Payments (effective 1 September 2010)

Note that paragraphs refer to the School Teachers’ Pay & Conditions Document (STPCD) 2010.

The previous system of two separate and defined SEN allowances (SEN1 and SEN2) has been replaced with a spot value allowance that falls within a specified new SEN range of between £2,001 and £3,954. Governors must therefore determine the award of existing and new SEN allowances in accordance with the criteria in paragraphs 25.2 and 25.3 which are set out below.

25.2 The governing body must award a SEN allowance to a classroom teacher:

(a) in any SEN post that requires a mandatory SEN qualification (this does not include the SENCO qualification);
(b) in a special school;
(c) who teaches pupils in one or more designated special classes or units in a school
(d) in any non-designated setting (including any PRU) that is analogous to a designated special class or unit, where the post
involves a substantial element of working directly with children with special educational needs; and

(ii) requires the exercise of a teacher’s professional skills and judgement in the teaching of children with special educational needs; and

(iii) has a greater level of involvement in the teaching of children with special educational needs than is the normal requirement of teachers throughout the school or unit within the school.

25.3 Where a SEN allowance is to be paid, governors must determine the spot value of the allowance, taking into account the structure of the school’s SEN provision and the following factors:

(a) whether any mandatory qualifications are required for the post;

(b) the qualifications or expertise of the teacher relevant to the post;

(c) the relative demands of the post.

25.4 The governing body must set out in its pay policy the arrangements for rewarding classroom teachers with SEN responsibilities.

It is clear, is the view of BATOD, that a Teacher of the Deaf would satisfy the requirements of a SEN award. The mandatory qualification alone makes it a requirement to pay a Teacher of the Deaf a SEN allowance. However, the spot value of the award needs to be assessed and the government have published guidance to assist. The relevant section is Appendix B:

Appendix B

Guidance: undertaking an Assessment of SEN payments

The previous system of two separate and defined SEN allowances (SEN1/SEN2) has been replaced with a spot value determined within a range between £2,001 and £3,954 (note: min/max of new range equivalent to min/max of what the value of SEN1/SEN2 would have been at 1 September 2010). Governors will determine the award of existing/new SEN allowances in accordance with the criteria set out in Appendix A and, where an award is to be paid, determine the spot rate.

How do we determine whether an existing SEN1 or SEN2 payment can continue?
Look at the reason for payment of the existing/new SEN allowance against the criteria outlined at Appendix A.

How do we know what spot rate to use for SEN allowances?
The value of allowances should be based on whether any mandatory qualifications are required (this does not include the SENCO qualification), other qualifications and expertise relevant for the post and the relative demands of the
post. Schools will make a judgement about the nature and challenge of a teacher’s work with SEN pupils compared and related to that of other teachers in the school.

In establishing appropriate values for their SEN allowances, schools should ensure that they have considered the full range of payments available and that the values chosen are properly positioned between the minimum/maximum values. For example, a teacher who is teaching a special class for which a mandatory qualification is required and who has considerable relevant experience (and who is therefore seen as one of the school’s leading professionals in this area) would be more likely to be paid towards the top end of the national range. Differential values relating to SEN roles in the school should be established to properly reflect significant differences in the nature and challenge of the work entailed, so that the different payment levels can be objectively justified.

The guidance gives an example which is relevant to Teachers of the Deaf:

*a teacher who is teaching a special class for which a mandatory qualification is required and who has considerable relevant experience (and who is therefore seen as one of the school’s leading professionals in this area) would be more likely to be paid towards the top end of the national range.*

This gives a clear indication that a suitably qualified ToD should be paid towards the top of the SEN range. How close to the top, is a decision the Head and Governors are required to make in line with the school’s pay policy (detailing who gets allowances and why).

The guidance applies equally to teachers in schools and ‘non schools based teachers’. Many ToDs are ‘non schools based and the guidance has this to say:

*Non schools-based teachers will have their current SEN payments (and any safeguarding which applies) assessed as part of future restructures, at the same time as it is determined whether or not their posts should remain on TP&C*

This is of obvious concern to teachers of the deaf. However, current reports from across the country show that most teachers of the deaf are being retained on TP&C. In this case, the guidance on the allocation of an SEN allowance applies.

It should be noted that the allocation of a SEN allowance does not preclude the addition of a TLR payment. The guidance makes it clear that *SEN allowances can also be held at the same time as TLRs as long as both sets of criteria are met.*