

United Learning submission on School Support Staff Negotiating Body

This submission to the Bill Committee concerns only the provisions for the School Support Staff Negotiating Body (SSSNB) (Part 3, Chapter 1; Schedule 3).

While we understand that the Employment Rights Bill is fundamentally concerned with employment law, these provisions have far-reaching consequences for education policy affecting the entire schools system, and it is important that this receives proper Parliamentary scrutiny.

Existing arrangements provide a strong national framework for support staff, but treat them as a category of local government worker: a school-focused framework would be better...

School support staff play a vital role in the success of schools and in enabling pupils to achieve their best. Historically, their pay has been determined as part of local government pay arrangements, through the National Joint Council (NJC) process.

Contrary to some claims, this does not mean that their pay and conditions are a 'soft underbelly' in relation to school pay and conditions. They have the same strength of framework and protection as all school staff do.

However, it does mean that school support staff are considered as a category of local government worker. The NJC arrangements do not make school-focused decisions and include measures which make sense for local government workers but are much less sensible for school staff. There is no scope under current arrangements to consider affordability for schools or government or to read across to School Teachers Review Body recommendations for teachers. Government calculations of pay affordability for teachers are forced to treat teachers' pay as a residual after accepting the local government settlement as a fact, rather than being able to consider the two together.

Local authorities may opt out of NJC arrangements and academies are not bound by them. In practice, however, virtually all schools and colleges do follow NJC arrangements. We think it will likely always be the case that most schools of all categories will follow a national framework, compulsory or not, because that is convenient and straightforward.

We think that a nationally negotiated framework focused on schools which schools of all types are required to have regard to has valuable advantages. It would be focused on the realities of school life (and could dispense with irrelevant or poorly directed provisions in the NJC documents), could read across to national teacher settlements and would be followed by schools unless there was a strong reason for divergence.

...However, compulsion to follow a single statutory model would have unintended negative consequences and would solve no known problem

Within the current system, those schools which diverge from the national framework treat that framework as their baseline. They could not in any case expect to recruit good quality staff if their terms and conditions as a whole fell below the national norm. This is also the case in relation to teacher pay: the School Teachers Pay and Conditions Document (STPCD) very clearly serves as a baseline and a floor, which is helpful to both teachers and employers.

There is no evidence or even example of a school or group of schools cutting the pay and conditions of support staff below norms negotiated within existing structures. We therefore cannot see any justification for the government making provision to over-ride their funding agreements with trusts or the terms and conditions of individual employees as this legislation proposes.

This is particularly the case because it would lead to worse terms and conditions for support staff in those trusts which have used their current flexibility in relation to staff pay and conditions. At United Learning, we have very deliberately chosen to implement better pay and conditions for our support staff colleagues, as part of our overall strategy, including:

- A meaningfully higher rate of pay than the national equivalent, reflecting the dedication of our people and the efficiency we can achieve as a large trust, and helping us to attract and retain excellent staff in our schools – seen this year for example in both higher increases and higher minimum pay rates than the national offer
- Fairness in pay awards between teachers and support staff – this year, for example, all staff received at least 5.5% general pay award, in line with the national STPCD pay award for teachers, rather than the 2.5% minimum in the NJC award;
- Our Level 3 Guarantee, ensuring that all pupil-facing support staff have a least Level 2 qualifications and are working towards a Level 3 qualification through our Apprenticeship provider (if not already qualified to this level);
- A generous package of non-pay benefits to all of our staff – including shopping and gym discounts, lease car opportunities and a health cash plan, giving staff money towards dental appointments, flu vaccines and other medical treatment.

None of this falls within NJC rules, but all of it is focused on attracting and retaining an excellent workforce in the interests of children and of the staff themselves. All of this would be ruled out by a requirement to comply with a national structure.

Flexibility has clear benefits for pupils and staff

It is fundamentally the responsibility of trusts and other governance bodies responsible for leading schools as a public service to ensure that they use public money as wisely as possible to secure the best possible outcomes for children. They should be highly accountable for doing so effectively. Reducing the flexibility of leaders to determine how best to use money for the benefit of children reduces their ability to solve problems and address specific pressures, reducing value for money; and it makes it less possible to hold them to account for outcomes.

The flexibilities we have in relation to pay have a number of clear advantages:

- Rapid response to national labour market changes. During the height of inflationary pressures and the cost-of-living crisis, supermarkets and other retailers were increasing pay and changing conditions rapidly to address labour shortages. Being able to respond quickly to this was important in enabling us to keep staff.
- Likewise, local labour market conditions can necessitate a response – for example, when new private sector employment opportunities arise in an area. Public services should not be out-competed by the private sector, and if schools cannot keep pace with their local labour market, that is a significant risk.
- The pressures on the SEND system mean that we need more highly qualified people in pupil-facing roles. Being able to require new appointees to qualify to a higher level and

paying them appropriately to do so is fundamental to our strategy for the most needy children.

- In general, national pay review bodies which mandate pay are a Treasury-led mechanism for suppressing public sector pay which lead to staff shortages. Allowing competition between employers for staff would drive up pay in general – this is in the interests of staff and will benefit pupils who have better-staffed schools. The budget constraints on schools provide a natural ceiling for this and cost control for Treasury.

Overall, there was no expectation in the trust sector that SSSNB agreements would be mandated, and we were not informed of or consulted on this before the Bill was published. Our contract with government states unequivocally that ‘pay and conditions of service ... are the responsibility of the Trust.’ We are concerned about the use of primary legislation to override unilaterally the provisions of a contract between trust and government, freely entered into on both sides, without any consultation with those affected.

We do not think that our Trust should have powers or advantages that others do not have. In relation to support staff, local authorities currently have the power to opt out of NJC arrangements and a number of them – including some of the largest employers of support staff – do so. More widely, there is a compelling case for all schools to have the same responsibility to set their pay arrangements that we currently have and that this would be in the interests of children and staff.

A national schools-focused framework without mandation

We believe that the Bill should be amended in order to continue to facilitate this beneficial local variation, for all schools, whilst achieving all the benefits of national guidance and a dedicated schools-focused process.

One option would be to amend the provisions to put a duty on employers to **have regard to** remuneration, terms and conditions, training and career progression for school support staff as set out in a national framework. This would mean that they must follow the framework unless there are good reasons not to do so. This would mean that government could expect employers which have departed from the national framework to ‘comply or explain’.

An alternative approach would be an amendment to create a formal opt in or opt out for all schools. If schools opted out they would still be required to have regard to the SSSNB guidance/agreements. Schools that opted out could also quite reasonably be expected to be able to explain both how they had had regard to the national guidance, and the rationale for any differences in arrangements.

We are happy to discuss this submission further.

United Learning
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