



School Teachers' Review Body

Special review of the threshold standards for classroom teachers and related matters

Chairman: Tony Vineall

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Chairman: Tony Vineall

Presented to Parliament by the Prime Minister and the
Secretary of State for Education and Employment
by Command of Her Majesty
October 2000

School Teachers' Review Body

The School Teachers' Review Body was established in September 1991 to examine and report on such matters relating to the statutory conditions of employment of school teachers in England and Wales as may from time to time be referred to it by the Secretary of State.

The present membership of the Review Body is:

Tony Vineall (*Chairman*)

Carol Ferguson

Ros Gardner

Peter Gedling

Janet Langdon

Richard Pearson

John Singh

Patricia Sloane

Carol Ferguson and Ros Gardner were appointed to the Review Body in July 2000. Michael Harding and Vince Harris retired from the Review Body following the submission of the last report.

The secretariat is provided by the Office of Manpower Economics.

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The following abbreviations are used in this report.

ATL	Association of Teachers and Lecturers
DfEE	Department for Education and Employment
NAHT	National Association of Head Teachers
NASUWT	National Association of Schoolmasters Union of Women Teachers
National Employers	National Employers' Organisation for School Teachers
NGC	National Governors' Council
NUT	National Union of Teachers
PAT	Professional Association of Teachers
SHA	Secondary Heads Association
UCAC	Undeb Cenedlaethol Athrawon Cymru/National Association of the Teachers of Wales

Special review of the threshold standards for classroom teachers and related matters

Introduction

1. The Secretary of State's remit for this urgent special review is reproduced with an accompanying DfEE note at *Appendix A*. The remit followed a judgment of the High Court on 14 July 2000 and asked us to examine and report on:

- the standards to be attained by classroom teachers at the performance threshold in order to gain access to a new upper pay scale being introduced with effect from 1 September 2000;
- the procedure for assessment at the performance threshold;
- whether headteachers should be subject to a duty to make any appropriate contribution to threshold assessment; and
- whether classroom teachers should be subject to a duty to assist the headteacher in the performance of any new duty relating to threshold assessment.

Events leading to this special remit

2. The performance threshold is a key element in a programme of far-reaching changes to teachers' pay and conditions of employment. These changes arose from proposals in a Green Paper in December 1998 and a subsequent Green Paper relating specifically to Wales. Following extensive Government consultation on what was proposed the remit from the Secretary of State in August 1999 for our last report asked us to make recommendations for the new pay structure but not on the detailed threshold standards. These were the subject of continuing development and consultation by the DfEE in parallel with our review.

3. Our general position on the threshold standards was set out in paragraphs 70 and 71 of our report. In considering the overall proposals we were aware of research relating to the standards commissioned by the DfEE from the consultants Hay McBer and the plans for external assessors to ensure as much consistency of application as possible. Hay McBer described their study as understanding the "inputs, throughputs and outputs" of the profession – what individuals bring to the job by way of skills, knowledge and characteristics; how they deploy these in their work; and the measurable results they achieve in terms of pupil progress. We said that achieving the right balance of all these considerations, both in principle and in practice, would be central to the effective operation of the new arrangements. We noted that the Secretary of State intended to consult on the resulting threshold standards alongside his consultation on the recommendations we made in our report. We made it clear that our pay structure recommendations assumed a satisfactory outcome to the final stages of Hay McBer's work and the development of the threshold standards.

4. Following the publication of our report in February, the DfEE consulted the teacher unions and other interested parties on revised draft standards, the application form and related guidance. The resulting *Threshold Assessment Application Pack* was

issued by the DfEE in March – the threshold standards included in that pack are reproduced at *Appendix B*. Eligible teachers in England were invited to apply by 5 June – subsequently extended to 14 July in exceptional circumstances – with a later date to be set for teachers in Wales. The arrangements were supported by training for heads and external assessors.

5. Our report referred at more than one point to the role of heads and “line managers” in the threshold process. Only later, however, was the formal incorporation of such duties in the statutory conditions of employment for heads and other teachers raised with our Chairman by the Secretary of State.

6. The NUT subsequently challenged the statutory basis on which the DfEE had promulgated the threshold standards and introduced the related new duties for heads and line managers. The High Court, as documented in the judgment of 14 July, largely found in favour of the case made by the NUT and quashed both the threshold standards and the duties which have as a result now been referred to us in a full reference under the *School Teachers’ Pay and Conditions Act 1991*. Meanwhile no further action has been taken on processing the threshold applications already made by some 197,000 teachers in England or towards implementing similar arrangements for teachers in Wales.

Conduct of the review

7. We circulated the Secretary of State’s remit letter and accompanying DfEE note to consultees, requesting written submissions by 4 September and arranging oral evidence sessions over the following two weeks. We were grateful for their ready co-operation in this and for their responses at short notice to a further note from the DfEE of 4 September.

Broad consensus of views

8. We found general agreement among our consultees that the first round of threshold assessments should be reactivated and completed as soon as possible, based on the standards and procedures which were being used prior to 14 July. This was so that teachers meeting the threshold standards could receive a pay increase of £2,001, backdated to the due date of 1 September 2000, with the minimum of delay, without the need for further briefing, new application forms, or fresh assessments. However, agreement with this approach was without prejudice to possible future changes to the standards and procedures and notwithstanding views expressed on such issues as the possible reopening of the deadline for applications in England or the possible introduction of an appeal mechanism for individual teachers.

9. There was similar wide acceptance that heads and other teachers with relevant line management responsibilities should have duties reinstated to undertake and assist with threshold assessment. However, questions were raised about the best way to make the duties of classroom teachers specific to those with appropriate management responsibilities.

Our views

10. There is concern about several aspects of the threshold arrangements but, in the light of the consensus on the need to complete the first round of assessments as quickly as possible, we have no hesitation in recommending that the threshold standards and procedures which were being used prior to 14 July should continue to be used. This is reflected in our recommendations at the end of our report. First, however, we address a range of issues which have been raised with us relating to the first round of the new arrangements and beyond.

Threshold standards – pupil progress

11. All consultees had continuing concerns about the pupil progress element of the threshold standards. The UCAC wanted pupil progress to be deleted from the threshold standards before the first round gets underway in Wales. The NUT reaffirmed its opposition to the inclusion of pupil progress, saying that there was no evidence to support the thesis that teaching and learning are supported by linking the pay of teachers to the performance of their pupils and that there was ample evidence to show that there should be no such link. It said that there was strong concern within the teaching profession that pupil progress should for future years be removed from the threshold standards. However, it said that much time and effort had been expended by teachers to research and use data to complete this section of the application form. It therefore said that, for the current year, evidence on pupil progress should be taken into account in so far as it was supportive of applications, but that it should not be used as a ground for refusal.

12. The NASUWT repeated its view that the particular focus on pupil progress was unhelpful, unnecessary and in danger of seriously undermining the whole process. It also referred to the recommendations of the McCrone Committee in Scotland which, in a report¹ published earlier this year which is subject to further lengthy consultation, had not adopted pupil progress as a criterion for judging the performance of teachers. The ATL and the PAT were concerned that the pupil progress standard should not be applied in a formulaic way, and that full account should be taken of the variety of circumstances in schools. This view was shared by the National Employers, the NGC who referred to the dangers of the crude use of pupil results, and by the two headteachers' associations. The SHA had suggestions for simplifying the way the standard is worded which can be looked at further in a future review.

Our views 13. We remain of the view that pupil progress, fairly assessed in the context of the school and the pupils' backgrounds, should be part of the process for identifying good teachers. We believe that it would be wrong to treat the pupil progress standard in the selective way suggested by the NUT for this year. We share the view of a number of consultees that the wording of the standard makes it capable of being interpreted in a sensitive and satisfactory way; the concern of most consultees was over the application of the standard in practice. For the moment we must wait and see how it is applied in this first round. Evidence which becomes available on this will have to be examined closely with particular regard to such questions as the different circumstances of teachers in nursery and primary schools as opposed to secondary schools, in special schools, in schools in socially deprived areas and in those with high rates of pupil turnover.

Future review 14. We received different opinions about the appropriate timing of a review of the threshold standards and procedures. The NUT and the NASUWT made it clear that they wanted this to be tackled for our forthcoming main report. All others said that a review would be more appropriate when experience had been gained of the new arrangements and evaluation evidence became available.

Our views 15. Considerable experience will have been gained of the threshold arrangements when the first round is eventually completed in respect of the 197,000 teachers who have already applied in England and others who are expected to follow in Wales. Any review of the arrangements must have access to an evaluation of the introductory year involving such a large number of teachers. We believe that the DfEE should commission this evaluation, which should be thorough and comprehensive, to be available for consideration during the review in autumn 2001 for the report which we would expect to produce at the beginning of 2002. Any changes could then be implemented later that year.

16. We will consider, for our report due early in 2001, any evidence-based representations which we receive relating to the threshold standards and procedures for the second year of applications and assessments, although it would probably be premature to reach any substantive conclusions at this early stage.

Application deadlines 17. In the DfEE's further note of 4 September the Secretary of State asked us to recommend that the original June deadline for applications in England which was extended to 14 July in exceptional cases should stand. The DfEE said that teachers who wished to apply had a reasonable opportunity to do so between the issuing of the application pack in March and the deadlines in June and July, and that the process was well publicised during that period. It held the view that a decision to reopen the deadline would delay the processing of existing applications which would need to await any further applications that are made. It might also be necessary to allow existing applications to be updated.

¹A Teaching Profession for the 21st Century. The report of the Committee of Inquiry into professional conditions of service for teachers. May 2000.

18. In its evidence to us, the NUT reported that its monitoring of threshold applications suggested that a number of teachers placed by their circumstances at some disadvantage had not applied but would have liked to do so. Particular reference was made to supply teachers and part-time teachers, some of whom were not informed of the threshold process while others were told that they were not eligible to apply or were discouraged from doing so on other grounds, and to teachers absent on long term sick leave or maternity leave. The NUT also referred to teachers centrally employed by LEAs for whom arrangements were not in place for them to apply and be assessed, and teachers who, in moving post from Wales to England, had missed the opportunity to apply because they were too early to do so in Wales and too late in England. The ATL also stated its concern about the possible low level of applications from part-time, supply and centrally employed teachers. Both unions said that a new deadline should be set for teachers who were disadvantaged in some way by the handling of the application process earlier this year, although they wanted to avoid new arrangements which might delay the completion of the assessment process for the 197,000 teachers who had already applied. The NUT said that the possibility of existing applicants wanting to update their applications could be avoided by restricting the evidence that could be presented by new applicants to what would have been available to them had they met the earlier deadline.

19. A new deadline has to be set for teachers in Wales, the original date of 29 September 2000 no longer being possible in the light of the High Court judgment of 14 July which quashed the threshold standards. The DfEE suggested that a reasonable deadline might be three months after the threshold process is reinstated, with a short extension where special circumstances apply, although the ATL and the SHA suggested that a shorter period would be adequate.

20. For the future the Secretary of State has proposed that the deadline for the next application round should be deferred until October 2001 for both England and Wales. This would cover teachers eligible for assessment from September 2000 and September 2001 with effective dates for threshold pay increases of respectively September 2001 and September 2002. In subsequent years, teachers would apply in the autumn, with threshold increases payable from the following September.

Our views

21. The need for teachers to complete and submit threshold applications was widely publicised and it is difficult to conclude that large numbers of teachers were unaware of their opportunity to apply or were discouraged from doing so in the way suggested. In addition, the extension of the original June deadline should have enabled the majority of those in special circumstances to apply if they wished. We therefore see no need for a general reopening of the application deadline. Despite this, we recognise that there may still be individual teachers who, because of exceptional circumstances such as a move from Wales to England, were placed at some disadvantage and, as a result, did not apply by the extended deadline. We believe that such teachers should have the opportunity to make a late application by demonstrating the exceptional circumstances which led to their not applying. Any cases must, however, be dealt with in a way which does not interfere with the speedy completion of the process for the 197,000 teachers who have applied.

22. Different views have been expressed to us about the proposed timetable arrangements for future years. A move at some stage to an autumn deadline for applications seems to offer a sensible way forward, but we believe that application dates for future years should be set by the Secretary of State in consultation with interested parties. The timing suggested in the DfEE's note for a new deadline for threshold applications for the first round in Wales seems to us to be reasonable.

Entitlement to apply

23. In addition to reopening the application deadline, the NUT and the PAT said that a formal entitlement should be established for teachers to apply to cross the threshold. The NUT said that this should be supported by a new duty on heads to make such an entitlement known and open to those who are eligible. It said that this would improve the fairness and transparency of the system for future years.

Our views 24. The very large numbers of teachers who were eligible to apply for threshold assessment this year, and the newness of the arrangements, will have resulted inevitably in some teething problems which are unlikely to be repeated in future years when the numbers will be far smaller and the arrangements should be well established and understood. It should become embedded in the new annual performance management process that teachers in the earlier stages of their careers will be preparing themselves for eventual threshold assessment which, when the time comes, will be the recognised next step in their professional development. However, an effective point is made that this should be reinforced by spelling out that teachers can apply and that there should be a duty on heads to so inform them. The need for this can be reviewed as part of the future evaluation of the arrangements as a whole.

25. Much has been written and said about the operation of the threshold. Other issues relating to the upper pay scale are to be addressed in our current main review. It will be important thereafter to provide all teachers with as clear and simple a statement as possible of the new pay structure, along the lines of the leaflet which was produced annually by the DfEE a few years ago. This should certainly make clear that teachers who have reached the top of the main pay scale may apply to cross the threshold. Copies should be made available to all teachers each year. Our visits to schools continue to reveal considerable confusion about the key features of the reforms, which this proposal should help to overcome.

External assessors and individual reviews

26. We found support for the role of external assessors, although the NUT wanted it to be limited to verifying the process and not include taking decisions on individual applications where this might arise in the sample of cases they examine. Concerns were expressed by others about cases where the assessor overrules the original decision of the head. The NUT told us when we met that this aspect of the assessor's role might be open to legal challenge, and it subsequently informed us that it had consulted leading counsel who had supported this view.

27. The DfEE confirmed its view that a system for individual teachers to appeal against a decision that they do not yet meet the threshold standards is unnecessary, saying that it is open to such teachers to reapply the following year. However, all of the unions representing classroom teachers saw the absence of an individual appeal mechanism as unjust and out of step with general practice. The suggestion was made by the ATL and others that a suitable arrangement could involve a second assessor. Concerns about the lack of an individual right of appeal were recognised by the National Employers and the NGC although they emphasised the need for effective feedback and professional help for teachers whose applications to cross the threshold were unsuccessful. The SHA did not want an individual appeal mechanism but said that if there were to be one it would need to operate speedily. The NAHT remained strongly opposed to individual appeals and said that it had accepted the external moderation of the assessor as a more appropriate approach.

Our views 28. We recognise the importance of consistency in the application of the threshold standards in order to help establish the integrity of the new arrangements and in view of the large sums of public money involved. Much rests on the quality of the judgments of the heads of some 25,500 schools. Some form of validation is required, and the use of external assessors is in our view a sensible approach – a view shared by most consultees.

29. The main focus of the external assessor's work is to scrutinise and, if so minded, approve the threshold assessment arrangements made by the head. This involves examining a sample of cases to check on the head's application of the threshold standards, with the assessor's view prevailing where there is disagreement about the decision made in respect of individual teachers in the sample. In some cases it will therefore be the external assessor, and not the head, who decides that such teachers do or do not meet the threshold standards. Even though the sample might deliberately include borderline cases, the position of such teachers might seem unfair in comparison with others in the school not in the sample.

30. The issue of the legal basis of the assessor's position is not, in our view, a matter for us but for the Secretary of State. We see our role as to apply our knowledge and

understanding of pay and related matters to the substance of the issues referred to us. We do not believe it is for us to rule on the legal basis of matters put to us, nor to seek alternative legal advice on them.

31. There may in any case be a danger of exaggerating the problem of assessors making the decision in respect of individual teachers. If the assessor questions a head's decision that a teacher meets the standards and the head agrees to change his view, the resulting decision against that teacher becomes the head's. If the head does not agree with the assessor on a particular case, the assessor might reasonably want to review and make judgments on the applications of the other teachers at the school. However, the involvement of an external authority in the form of the assessor does add weight to the requests which we have received for some form of appeal for individual teachers.

32. The threshold is a major stage in a teacher's career in the profession, involving not only an immediate substantial increase in pay but also offering scope for further advancement on the new upper pay scale. Teachers who continue to be unsuccessful with their applications to cross the threshold could begin to question their prospects of future progress in the profession. It is also worth noting that review mechanisms are already available to teachers in particular circumstances, for example grievance procedures and the recently introduced procedure for new entrants to teaching who are considered not to have completed their school induction year satisfactorily. For all these reasons we believe there is a good case for there to be scope for the threshold assessment to be reviewed at an appropriate stage by another person or persons capable of making judgments about professional competence.

33. For teachers who are assessed as not ready to cross the threshold, the first priority must be to ensure really effective feedback and support within the framework of the new performance management arrangements. They should be given every assistance to reach the threshold standards so that they can be successful when making a subsequent application. We have every confidence that heads will make sound and fair judgments and will want to assist their staff to succeed.

34. While what we have described should be the normal course of events, we recognise that some teachers, after discussion with the head, may continue to believe that they have been wrongly assessed as not yet meeting the threshold standards. We believe that such individuals should be given the right to have that decision reviewed, perhaps by a second assessor or by some other body. The DfEE would need to consult interested parties about appropriate detailed arrangements. We do not believe that such consultation has to be completed in advance of restarting the main threshold process. Any threshold pay increase arising from a review should be backdated appropriately.

Duties

35. The Secretary of State has confirmed his view that heads and other teachers should be subject to the duties set out in the quashed statutory order and repeated in the Document – as reproduced at *Appendix C*. It was suggested at *paragraph 18* of the DfEE's further note of 4 September – reproduced at *Appendix D* – that for heads this should be supplemented by specific duties relating to the handling and assessment of threshold applications. The Secretary of State said in his remit letter that there should be no possibility of teachers being deprived of threshold assessment because other relevant teachers with management responsibility do not have a duty to assist in carrying out the assessment. He said that the main criticism of the duty on classroom teachers was that it could be used to force teachers to assist inappropriately in the assessment of their peers. However, he said that the Document provides for all the duties on classroom teachers to apply potentially to all classroom teachers because it does not assign duties to teachers at different levels. Instead it gives classroom teachers the protection that duties must be reasonably assigned and performed in accordance with any directions reasonably given by the head. This enables schools to determine their own management structures.

36. We found general agreement that heads and appropriate line managers should have a duty to undertake and assist with threshold assessment. However, there were continuing concerns that the duties on classroom teachers should be related more directly to those with the relevant responsibilities. The ATL proposed that the duty

should only apply to appropriate teachers in receipt of a management allowance, while the NUT suggested wording that would define teachers in terms of those “to whom line management responsibilities are owed by an applicant for threshold assessment”. It said that the duty should further be limited to assisting the head and that there should be no question of a teacher being required to assist an assessor directly.

Our views 37. We agree in principle that appropriate duties, supplemented in the further way suggested by the DfEE, should formally be reinstated to ensure that all heads carry out threshold assessments of their staff, and are able to do so with the help of appropriate line managers. We would expect that in most primary and special schools the head, with the assistance of any deputy, would be in a position to complete threshold assessments without recourse to other staff, especially in future years when numbers will be much smaller. The larger size and departmental structure of most secondary schools would suggest that the contribution of line managers is more important in that setting. We are disinclined to endorse the suggestion that the payment of a management allowance should formally be a factor in determining who can assist the head because such allowances can be paid in respect of a wide range of management responsibilities and not just line management. We have noted the NUT’s continuing concerns about the wording of the duties and propose that the DfEE should look at this further when responding to our report. We would also expect that evaluation of the first round of threshold assessments will cover how the duties of heads and line managers have worked in practice.

Detailed issues 38. In its further note of 4 September, the DfEE referred to a number of issues at various levels of detail relating to the threshold arrangements. Some of these issues, including application deadlines, the role of assessors and individual reviews, and duties for heads and other teachers, are covered earlier in our report. Other matters relate largely to the question of how much of the arrangements already developed should be in the *School Teachers’ Pay and Conditions Document*, and what can be covered in non-statutory guidance. We consider that this and other detailed aspects in the DfEE’s note are best addressed in the normal process of direct consultation between the DfEE and interested parties by those involved with such matters on a daily basis. We have been assured by the DfEE that it will be undertaking a full process of consultation following the submission of our report.

39. In a wider context, the ATL has suggested that there is a need for a new form of non-statutory management code which goes beyond pay and conditions of employment, and this is an idea which could be examined further by the DfEE and interested parties. The Document is inevitably framed in legal terms and needs to be complemented by effective non-statutory guidance.

40. The ATL and others, including NASUWT and the National Employers, have also raised questions about how business might in future be conducted through the prior discussion of issues before they come to us and in the process thereafter. We have noted the views put to us, but these are matters for longer-term consideration beyond the scope of this report.

Recommendations

41. Our recommendations are as follows.

We recommend that the introduction of performance threshold arrangements for classroom teachers should be resumed on the following basis.

Threshold standards and procedures

(i) The threshold standards which were being used prior to 14 July 2000 should continue to be used and appear in a new section of the School Teachers' Pay and Conditions Document. The Document should also include the procedures which were in the original Document, subject to our further recommendations below.

Future review

(ii) The DfEE should commission a thorough and comprehensive evaluation of the threshold standards and procedures to be available for consideration during the review for the report which we would expect to produce at the beginning of 2002.

Application deadlines

(iii) There should be no general reopening of this year's application deadline for teachers in England. However, individual teachers who, because of exceptional circumstances such as a move from Wales to England, were placed at some disadvantage and, as a result, did not apply by the extended deadline should have the opportunity to make a late application by demonstrating the exceptional circumstances which led to their not applying.

(iv) The application date to be set for teachers in Wales should allow reasonable time for teachers to receive adequate information and guidance on the process, and for completion of their application forms.

(v) Application dates for future years should be set by the Secretary of State in consultation with interested parties.

Explanatory leaflet

(vi) All teachers should be provided with a clear and simple statement each year of the new pay structure, along the lines of the leaflet which was produced annually by the DfEE a few years ago. This should make clear that teachers who have reached the top of the main scale may apply to cross the threshold.

Feedback

(vii) Guidance should be provided emphasising the priority which should be attached to really effective feedback, within the framework of the school's performance management arrangements, to teachers who are assessed as not yet ready to cross the threshold. They should be given every assistance to reach the standards involved so that they can be successful when making a subsequent application.

Individual reviews

(viii) Teachers who, after discussion with the head, continue to believe that they have been wrongly assessed as not yet meeting the threshold standards should be given the right to have that decision reviewed, perhaps by a second assessor or by some other body. The detailed arrangements should be drawn up by the DfEE in consultation with interested parties.

Duties for headteachers and other teachers

(ix) Threshold-related duties for headteachers should be as were included in the Document supplemented by the duties relating to the handling and assessment of threshold applications proposed at *paragraph 18* of the DfEE's note of 4 September 2000. Headteachers' duties should also include giving teachers, within a reasonable timescale, an explanation of the result of their assessment with an indication of areas for further development.

(x) The duties for other teachers should in principle be as were included in the Document, but the DfEE should consider any additional wording which is suggested for making the duties specific to teachers with relevant line management responsibilities. Whatever wording is adopted should be backed up with clear non-statutory guidance.

Detailed issues

(xi) Other detailed matters raised in the DfEE's note of 4 September 2000 should be the subject of direct consultation between the DfEE and consultees.

Conclusion

42. The recommendations we have made in this report are aimed, with the broad support of all our consultees, at enabling the first year of threshold assessment to be completed as quickly as possible so that successful teachers can receive their promised increases in pay.

Tony Vineall
Carol Ferguson
Ros Gardner
Peter Gedling
Janet Langdon
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John Singh
Patricia Sloane

16 October 2000

Appendix A
Remit letter from the Secretary of State and
accompanying DfEE note
(see paragraph 1)



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The Rt Hon DAVID BLUNKETT MP

Tony Vinson
Chair
School Teachers' Review Body
Office of Manpower Economics
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28 July 2000

Dear Tony

I am writing to give the School Teachers' Review Body (STRB) an urgent new remit further to the High Court judgement on Friday 14 July.

In pursuance of my power under section 1(1) of the School Teachers' Pay and Conditions Act 1991, I refer to the STRB the following matters for consideration and report:

- a) the standards to be attained by teachers at the performance threshold in order to gain access to the upper pay scale;
- b) the procedure for assessment at the performance threshold;
- c) whether head teachers should be subject to a duty to make any appropriate contribution to threshold assessment;
- d) whether classroom teachers should be subject to a duty to assist the head teacher in the performance of any new duty relating to threshold assessment.

In pursuance of my power under section 1(4) of the School Teachers' Pay and Conditions Act 1991, I give the following directions as to considerations to which the STRB are to have regard to:

- a) the fact that further to the STRB's Ninth Report, provisions are in place in the School Teachers' Pay and Conditions Document 2000 for a performance threshold, but teachers do not have access to the threshold pay increase further to the High Court judgement which quashed the promulgation of threshold standards by my Department and the Education (School Teachers' Pay and Conditions) (No. 2) Order 2000. Further provisions are needed in the Document to give effect to the performance threshold and to give teachers access to the upper pay scale as soon as possible in the school year 2000/01;
- b) my view that the statutory threshold standards should be the same as the standards promulgated by the DfEE in March 2000, for the reasons that those standards are the result of extensive consultation with all STRB consultees on a series of draft proposals, informed by the new research on the characteristics of good teaching;

D/EE

c) my view that the statutory procedure for threshold assessment should be the same as that set out in the Threshold Assessment Application Pack issued by my Department in March 2000, and should entail assessment by the head teacher and validation by an external assessor, for the reasons that:

- I. these procedures offer the best prospect of accurate and consistent assessment;
- II. head teachers and external assessors have been involved in these procedures;
- III. arrangements for these procedures have already been put in place and tested successfully;

d) my view that the threshold standards and assessment procedures which have been developed provide the means by which teachers may receive the threshold pay increase from 1 September 2000 within a reasonable timescale;

e) my view that head teachers and other teachers should be subject to the duties in relation to the carrying out of threshold assessments that are set out in the qualified Education (School Teachers' Pay and Conditions) (No. 2) Order 2000 and repeated in the School Teachers' Pay and Conditions Document 2000, for the reasons that:

- I. there should be no possibility of teachers being deprived of performance threshold assessment because other relevant teachers with management responsibility did not have a duty to assist in carrying out the assessment;
- II. the main criticism of the duty on classroom teachers was that it could be used to force teachers to assist inappropriately in the threshold assessment of their peers. However the Document provides for all the duties on classroom teachers to apply potentially to all classroom teachers; this is because the Document does not assign duties to classroom teachers at different levels. Instead it gives classroom teachers the protection that duties must be reasonably assigned and performed in accordance with any directions reasonably given by the head teacher. This enables schools to determine their own management structures. This was clarified in a letter of 28 April 2000 to Nigel de Gruchy and 8 May to other consultees.

I direct the STRB to report by no later than early October 2000 to the Prime Minister and me on the matters for examination and report listed above. I will arrange for your report to be published. I am very grateful to you for having sought the views of the statutory consultees on the timescale for the STRB's consideration of these matters.

You and the statutory consultees are well aware of the consultations that have already taken place and the substantial amount of evidence in the public domain about the matters for examination and report and the considerations to which the STRB are to have regard. Attached to this letter is a note setting out details of the consultations and describing the operation of threshold standards and assessment procedures up to the date of the judgement, in support of the considerations listed above to which the STRB is to have regard. I would be happy to provide any further evidence which you may require for the STRB's deliberations.

I look forward to receiving your recommendations.

Best wishes



DAVID BLUNKETT

Threshold Standards and Process

This note summarises the consultations undertaken by the Department in developing the threshold standards and the associated assessment arrangements.

The Standards

The Government first consulted on the standards and procedures for the threshold assessment as part of the Technical Consultation Document published in February 1999. There were relatively few concerns raised during consultation. The most controversial aspect was the Government's requirement that assessment should take account of the progress made by the teachers' pupils. There was concern that assessment process would favour teachers of better performing classes or those whose pupil progress was more easily assessed.

Following comments received during consultation that the standards should be soundly based, the Department commissioned Hay McBer in June to carry out research into the characteristics of effective teaching. Hay McBer reported its conclusions as they related to the threshold to the Department in mid December. The Department issued Hay's interim report relating to the threshold at the end of January and published the full report in early June.

The Department revised its original proposals for the threshold standards and assessment procedures to take account of the research findings and of other views made in the Green Paper consultation responses. The main changes from the February 1999 draft were:

- The original standards were streamlined and regrouped under the headings of knowledge and understanding, teaching and assessment, pupil progress, wider professional effectiveness and professional characteristics
- A new heading on professional characteristics was based on the main elements of the findings by Hay McBer.
- The February 1999 standard on "pupil performance" was changed to "pupil progress" and the content changed to make clear that what was sought was an assurance that pupils taught by the applicant made the sort of progress that could be expected of such pupils
- An application form was developed inviting teachers to summarise evidence about how they met the standards. Draft guidance notes gave more detail of the way the standards were to be interpreted, including some of the detail originally included in the standards themselves.

The Department consulted the teacher unions informally in January 2000 on the new draft standards, the draft application form and guidance. The standards and the application form and guidance were all streamlined down further as a result of these discussions. In particular:

- The wording of the standards was streamlined down further into a total of eight standards under five headings: some of the requirements which caused concern in the January draft were dropped, such as consideration of pupils' non-academic progress which was felt difficult to quantify.
- Particular attention was given to the wording of the standard on pupil progress. The associated guidance was reviewed to make clear that it was the progress made by pupils, judged in the context of the school.
- More prominence was given to the value of classroom observation as supporting evidence while not requiring teachers to have a new observation carried out specifically for threshold. An observation form was developed which would, if teachers wished, provide a good evidence base for an application.

- The length of the application form and guidance was reduced by about a third and many detailed suggestions incorporated on the content and presentation. An Equal Opportunities monitoring form was developed.

The Department consulted STRB statutory committees on the threshold standards application form and guidance between 9 February - 1 March. Some further clarifications were made to the guidance as a result e.g. on the nature of the contextual evidence a headteacher should provide to the assessors prior to the validation visit.

As teachers' pay was not devolved to the National Assembly for Wales the Secretary of State is responsible for pay in both England and Wales. The Secretary of State was aware of the reservations expressed in the National Assembly for Wales about the pupil progress standard but continued to see a strong case for providing that the threshold standards should include an assessment as to whether the teacher's pupils were making the progress expected. He also felt it would not be appropriate to have different threshold standards for teachers in England and Wales within a unified pay structure.

The Department developed further practical guidance (prompts) for applicants and headteachers as a result of initial trials of the form in January and February. It published a separate note on the presentation and assessment of pupil progress information. All of the information was made available on the Department's teaching reforms website, together with a set of questions and answers responding to issues raised following publication in England.

The Assessment Process

The Department's thinking on the application and assessment process for the threshold also evolved throughout the consultation. It has identified four components as important ever since the Technical Consultation Document in February 1999: voluntary application by teachers with supporting written material; comment by line managers; assessment by head teachers; and validation by external assessors. However, the practicalities were modified in response to comments made in the course of consultation.

Key issues which were considered included:

Eligibility: With some 250,000 teachers eligible for the threshold in England alone there was concern about how existing teachers should be assessed for the upper pay scale. Some arguments were made that certain categories of teacher should be exempt from the threshold but the Department felt it appropriate that there should be an open and fair assessment of teaching capability for all teachers who were promoted to the upper pay scale. The more demanding AST assessment was deemed to count for these purposes if an AST reverted to classroom teaching. It is also intended that existing heads and deputies should be placed on the upper pay scale if they revert to classroom teaching, and that leadership group members appointed on or after 1 September 2000 should be placed on the upper pay scale if they revert to classroom teaching after 5 years or more in the leadership group.

Method of Application: The Technical Consultation Document envisaged that all teachers should complete an application portfolio but this was widely felt to be too onerous. Ministers announced in July 1999 that a straightforward application form would be used. The consultation drafts of early 2000 proposed a 9-page application form on which teachers would summarise relevant evidence. This was later reduced to 7 pages. Another of the simplifications in the

consultation drafts was to provide that only the head teacher would make written comments on the form - not line management.

Background: The Department recognised the concern amongst teachers' and headteachers' representatives about the time involved in filling in and assessing applications. These concerns were addressed as far as the Department felt appropriate by simplifying both form and process as described above. But the Department felt that a structured approach was required to ensure that the significant sums of additional public funds earmarked for extra pay for good teachers would be correctly spent. It also felt that particular care was needed in the introductory years, particularly where schools had no history of regular performance appraisal to inform headteachers' judgements. However the Department recognised explicitly that the process of Threshold Assessment might change in a few years' time, once the new performance management arrangements had bedded down. It envisages that a review of the initial procedures would be appropriate once the first 2 or 3 rounds were completed.

Role of External Assessors: Differing views emerged about the use and role of external assessors to verify heads' judgements. Some considered that headteachers could be overruled by external assessors. Others felt that an external check would be valuable to ensure proper application of the standards. The Department felt strongly that an external check was necessary to ensure fairness and consistency, particularly given the newness of the standards and the large sums of public money at stake. Assessors were recruited and trained to validate headteachers' judgements through sampling, with a right for the assessor's view to prevail in the case of disagreement about a member of the sample, provision for a revisit in any case of serious concern about a headteacher's approach and in the last resort a deferral of the assessment process at that school.

Appeals: Differing views were also put to the Department about a right of appeal by individual teachers against decisions about whether they had met the standards. The Department decided against an appeals mechanism, partly because inherent in the assessment process was the external moderation of the assessor but also because of practical considerations given the very large number of potential applicants. It was intended to have annual assessment rounds and the likelihood was that teachers would have concerns dealt with more quickly by applying in the next round than through an appeals mechanism.

Current Situation

Nearly 200,000 teachers in England have applied to be assessed against the Threshold standards. Headteachers received a day and a half training and had been required to make assessments by 31 July. Following the Judds Review, that deadline has been postponed pending the outcome of the Review Body process. Nevertheless, significant numbers of headteachers have completed the assessments and sent material to the contractors responsible for deploying the external assessors. A "vanguard" of some 183 schools were visited by external assessors in early July and assessments completed. Feedback from these early assessor visits has been positive, along the lines that the process was rigorous but productive in giving heads a deeper understanding of their staff.

In Wales, teachers have been sent application packs, but have been informed that the original deadline for the completion of applications has been suspended. Arrangements have been made for Welsh LEAs to provide training and assessment services, assessors are being trained and headteachers have completed their first day of training.

The aim of the assessment process in the first year was to ensure that successful teachers received their pay award before the end of the financial year 2000-2001. All awards are to be backdated to 1 September 2000. The intention was to minimise as far as possible the length of time between teachers submitting their forms and hearing the outcome. We also need to make provision for year 2 - intended to begin in March 2001. The aim over time is to bring the process forward so that teachers receive their pay increase in the September following assessment in the summer term.

Appendix B
Threshold standards
(see paragraph 4)

THRESHOLD STANDARDS

Knowledge and Understanding: Teachers should demonstrate that they have a thorough and up-to-date knowledge of the teaching of their subject(s) and take account of wider curriculum developments which are relevant to their work.

Teaching and Assessment: Teachers should demonstrate that they consistently and effectively:

- plan lessons and sequences of lessons to meet pupils' individual learning needs
- use a range of appropriate strategies for teaching and classroom management
- use information about prior attainment to set well-grounded expectations for pupils and monitor progress to give clear and constructive feedback.

Pupil progress: Teachers should demonstrate that, as a result of their teaching, their pupils achieve well relative to the pupils' prior attainment, making progress as good or better than similar pupils nationally. This should be shown in marks or grades in any relevant national tests or examinations, or school based assessment for pupils where national tests and examinations are not taken.

Wider Professional Effectiveness: Teachers should demonstrate that they:

- take responsibility for their professional development and use the outcomes to improve their teaching and pupils' learning
- make an active contribution to the policies and aspirations of the school.

Professional Characteristics: Teachers should demonstrate that they are effective professionals who challenge and support all pupils to do their best through:

- inspiring trust and confidence
- building team commitment
- engaging and motivating pupils
- analytical thinking
- positive action to improve the quality of pupils' learning.

DfEE 24 March 2000

Appendix C
Threshold duties for heads and other teachers
(see paragraph 35)

The threshold duties which had been adopted for heads and other teachers in the *School Teachers' Pay and Conditions Document 2000* prior to the High Court judgement of 14 July were as follows:

Conditions of employment of head teachers

51.8.6

assessing whether a teacher at the school who requests an assessment has passed the threshold, subject to approval of the assessment arrangements by an assessor, and where requested by him to do so providing assistance to an assessor in relation to threshold assessments at the school;

Conditions of employment of teachers other than head teachers

58.11.1

contributing to the selection for appointment and professional development of other teachers and non-teaching staff, including the induction and assessment of new teachers and teachers serving induction periods pursuant to the Induction Regulations and assisting the head teacher in carrying out threshold assessments of other teachers;

Appendix D
Further note from the DfEE
(see paragraph 35)

THE PERFORMANCE THRESHOLD PROCESS - NOTE BY THE DfEE

Introduction

1 This note follows up the Secretary of State's special remit letter of 28 July and the note on the threshold standards and process attached to that letter. In relation to item b) of the remit - "the procedure for assessment of the performance threshold" - the Secretary of State required the STRB to have regard to his view that the procedure should be the same as that set out in the Threshold Assessment Application Pack issued by the Department in March 2000. The evidence and representations in this note are based on these procedures.

2 The High Court judgement gives rise to the question which of the matters covered in the threshold assessment process should be regarded as part of the contract of employment, and hence should appear in the School Teachers' Pay and Conditions Document (STPCD), and which should appear as non-statutory guidance. This note makes suggestions as to the answer to that question, and it further suggests that the STRB make explicit recommendations in relation to the matters noted below, which the Secretary of State believes to be contractual. For completeness it indicates where appropriate recommendations have already been made and need not be repeated. Within this framework, this note also discusses the timetable for reinstating threshold assessments.

3 The content of this note is rather different from the normal process of the submission of evidence to the STRB. The usual process is for successive statutory consultations following the publication of the STRB report to cover the detail of issues raised in the report. However in this instance the Secretary of State would welcome recommendations at a more detailed level. This is in the interests of encouraging an informed examination of the issues (and thus contributing to a speedy resumption of the Threshold process) and because the Department had already developed these particular provisions. This note therefore exposes the issues in more detail than would be the case normally where matters are referred to the STRB.

Contractual matters

4 The Secretary of State believes that the following matters should be set out in the STPCD to the extent to which they are described below.

STPCD layout

5 It may be appropriate for matters relating to threshold assessment to appear in a new section of the STPCD. The duties proposed in the special remit for headteachers and for other teachers to assist the head would appear in the appropriate professional duties sections. Where this note proposes specific duties in relation to the handling and assessment of applications, these might be added as supplementary duties to the duties proposed in the remit. Formal appointment of teachers to the upper pay scale would be made by the governing body at the appropriate time following confirmation that the teachers had been assessed as meeting the threshold standards either directly by an external assessor or through an assessment process validated by an external assessor.

Eligibility

6 The Secretary of State has already accepted the STRB recommendation to the effect that assessment is triggered by voluntary application by teachers at the top of the incremental part of the pay structure. The eligibility criteria for the 2000, 2001 and 2002 assessment rounds were set out in detail in paragraph 19.2 of the original 2000 STPCD. We propose to restate paragraph 19 and related provisions deleted in the No 3 order in identical terms save

for necessary changes to application dates.

Annual assessments

7 The Secretary of State believes that the principle of assessment on an annual cycle is implied in the recommendations in the STRB's Ninth Report 2000, since all teachers are guaranteed one pay review each year, and the opportunity to pass the threshold would be available to all eligible teachers whose eligibility is conferred upon a new cohort of teachers each year as at the pay review date. The STRB may wish to make an explicit recommendation to this effect in case of any doubt.

Application timetable 2000

8 The Secretary of State asks the STRB to recommend that the 8 June 2000 deadline, with an extension to 14 July in exceptional circumstances, for threshold assessment applications for the 2000 round in England should stand. Teachers who wished to apply in 2000 had a reasonable opportunity in which to do so between the issuing of the application pack on 24 March and the published deadline. The threshold assessment process was very well publicised during that period.

9 Retention of the earlier deadline in England would allow the assessment of pending applications to be to be restarted as soon as the Secretary of State makes an order further to the STRB's report on the special remit. This should mean that most teachers successful at the threshold would receive the backdated threshold pay increases in their pay packets by Easter at the latest.

10 The STRB should be aware that any change to the threshold standards or procedures is likely to cause significant delay to the 2000 round of assessments and to teachers receiving the threshold pay increases in their pay packets. The reason for this is that any change would give those teachers who did not apply before 8 June a legitimate reason to review whether or not they would now wish to apply. Furthermore pending applicants would have to be given the right to amend their application. A new deadline for applications some time in the New Year would need to be set, the new applications would need to be re-assessed by headteachers (or equivalent) and assessment would not be complete until the summer at the earliest.

11 Since the threshold standards were quashed before 29 September 2000, the application deadline for teachers in Wales set out in paragraph 3.1(c)(ii) of the 2000 STPCD, it will be necessary to allow teachers in Wales a reasonable time after a Pay and Conditions Order reinstates the threshold process in which to apply. This would need to take into account the need for schools to complete their in-service training days, now on hold. A reasonable deadline might be 3 months after the order is made, with a short extension where special circumstances apply.

Application timetable for future years

12 It had originally been envisaged – and set down in the STPCD – that applications in the 2001 round would run to a similar timetable to that originally envisaged for the first round. However a June 2001 deadline for applications now looks too tight. Some teachers who learnt that they had been unsuccessful in the first round would have very little time to take stock and reapply in round 2. Also there would be very little time to digest and disseminate lessons learned from round 1.

13 The Secretary of State therefore proposes that the deadline for the next application round be put back to October 2001 for both England and Wales and that this round should

cover teachers who are eligible as of September 2000 as well as those who are eligible in September 2001. Successful teachers who were eligible as of September 2000 would have their threshold pay increases backdated to September 2001 as always intended. Successful teachers who were eligible as of September 2001 would move to the upper pay range in September 2002, again as intended. In subsequent years, teachers would apply in the autumn after the September in which they were eligible, and their promotion would be effective the following September.

14 The STRB may wish to reflect those considerations in detailed recommendations, or alternatively consider leaving it to the Secretary of State to set appropriate deadlines for application and assessment to enable the threshold pay increases to be paid as close as possible to 1 September. The date would be set out in future STPCDs in the same way that dates were set out in the original 2000 STPCD.

Method of application

15 The Secretary of State believes that teachers should be required to summarise evidence that they have met the threshold standards. The Secretary of State does not believe that the threshold assessment application form should constitute part of the STPCD. The form - which the STRB has seen - is merely a vehicle for recording the information needed, and the Secretary of State does not expect that the STRB will wish to or needs to consider its detailed design. The present form includes a declaration that the teacher is eligible for assessment and would like the evidence they have submitted to be taken into account in assessing their work against the threshold standards.

16 The evidence to be summarised in the application might appropriately be described as evidence that the teacher has worked at broadly the standards indicated over the past two to three years. The evidence to be considered should be that which is available up to the deadline for submitting applications. This would mean that any examination results that arrived after the application was submitted could not be taken into account in the assessment.

17 The Secretary of State does not believe that other guidance in the application pack should constitute part of the STPCD. Applications should be assessed against the threshold standards, and detailed guidance in the application pack is commentary on the standards and information about the assessment procedure. Just as other provisions in the STPCD may be explained in non-statutory guidance, so may be the threshold standards.

Role of the headteacher

18 The Secretary of State believes that the head should be required to assess applicants against each of the standards; to record his assessments; and to confirm his belief that the evidence is correct, relevant and representative of the candidate's performance. The application form currently supplements this by asking the head to explain what evidence he has taken into account, setting the teacher's performance in the context of the school and to identify areas for further development. The head should be required to make the assessment and submit it to the external assessor within a reasonable timescale. The precise dates should be determined by the Secretary of State.

Role of other members of staff

19 The Secretary of State believes that the duties on other teachers to assist the head in the assessment of other teachers should be reinstated in the section of the Document that deals with professional duties. Assisting with the Threshold assessment process should come within the duties concerned with management and, as we have said, is meant to be applied

appropriately where teachers have management responsibilities rather than be applied indiscriminately to all teachers.

Role of the external assessor

20 The function of the external assessor appointed by the Secretary of State would be as originally defined in the STPCD 2000, namely to assess whether teachers have passed the performance threshold, and to scrutinise, and if so minded, approve, threshold assessment arrangements made by headteachers and others. In addition the STPCD should provide that the assessor may consult as appropriate with the head or appropriate line manager in relation to any application, and any head or teacher whom the assessor consults must respond. The assessor should also be required to report to the governing body the outcome of the threshold assessment process.

Confidentiality

21 The Secretary of State believes that teachers should have a guarantee that only the head, other members of the school's leadership group, any other line manager with responsibility for the teacher, the external assessor, and any other person with responsibility for quality assurance of assessment, may see their application.

Feedback

22 The Secretary of State would give guidance to the effect that teachers should be given an explanation from their headteacher of the result of their assessment with explanations of areas for further development within a reasonable timescale.

Unattached teachers

23 The STPCD would make clear that threshold assessment and the upper pay scale are available to these teachers where they are paid as classroom teachers, and that where there is no head or suitable manager they may be assessed directly by an external assessor.

Teachers who do not teach pupils

24 In general the proposed provision that the teacher has worked at broadly the standards indicated over the past two to three years should apply.

Teachers with more than one workplace

25 The STPCD would indicate that such teachers should be assessed by the head of the school at which they spend the most time, with appropriate input from the other head or heads.

Teachers not subject to the STPCD

26 The STPCD would make clear that any teacher not subject to the STPCD who has been assessed by a similar method to that set out in the Document to have met the standards should join the upper pay scale when he or she returns to a post which is subject to the STPCD.

Complaints and appeals

27 The Secretary of State does not believe a system of appeals to be necessary. The external assessor provides the necessary external verification of consistent application of the

standards. Beyond that, it is open to teachers who do not pass the threshold to reapply the following year.

4 SEPTEMBER 2000