

Guidance: New Allowance Range for Special Educational Needs Teachers

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1. Introduction

One of the main changes to the 2010 School Teachers' Pay and Conditions Document (STPCD) is the introduction of a new allowance range for Special Educational Needs Teachers.

2. New arrangements for SEN allowances

The previous system of two separate and defined SEN allowances has been replaced from 1 September 2010 with a spot value allowance that falls within a specified SEN range of between £2,001 and £3,954. Where it is the relevant body, the Governing Body of a school must determine the award of an SEN allowance in accordance with the criteria set out in paragraphs 25.2 and 25.3 of the STPCD (see Appendix 1).

3. General principles

SEN allowances may be held at the same time as TLR's. However, relevant bodies should, when keeping their staffing structures under review:

- (a) ensure that, in the light of remodelling and the move of administrative tasks from teachers to support staff, holders of SEN allowances are not carrying out tasks that would be more appropriately undertaken by support staff;
- (b) consider whether, if teachers have responsibilities that meet all the criteria for the award of TLR payments it would not be more appropriate to award a TLR payment instead of a SEN allowance of a lower value;
- (c) not continue to award new SEN payments solely for the purposes of recruitment and retention; and
- (d) ensure that any SEN responsibilities are clearly specified in individual teacher's job descriptions.

Where the criteria for the payment of a SEN allowance are met (as set out in Appendix 1), the Relevant Body must award an allowance and the teacher's written notification given at the time of the award should specify the amount, and the reason for the award.

In addition, it is necessary to be absolutely clear, that the SENCO qualification is not one of the mandatory qualifications leading to the payment of a SEN allowance (please see Appendix 1). There is a firm view that the role of SENCO, as a managerial responsibility, is not one that meets the criteria for a SEN allowance but rather it is more appropriately rewarded by a TLR payment. If, in addition to their SENCO role, a teacher meets the criteria set out in paragraph 25 of the STPCD (Appendix 1), then they should be eligible for both a TLR payment and a SEN allowance. However, they are distinct payments - one payable for additional responsibility, the other for the demands of the teaching role they are carrying out.

4. Assessment of appropriate allowance values

The pay policy for the school should set out the basis for rational, transparent and fair decisions on levels of payment for SEN allowances. This will reflect the school's organisation of or provision for SEN.

The value of allowances should be based on whether any mandatory qualifications are required, other qualifications and expertise relevant for the post and the relative demands of the post. This will require schools to make a judgement about the nature and challenge of a teacher's work with pupils with SEN compared and related to that of other teachers in the school.

In establishing appropriate values for the 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 and maximum established in the national framework. 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 (see Appendix 2 for Models).

Schools should take account of the way in which SEN provision is organised and delivered locally and may want to consult with the Schools HR Consultancy Team for advice on establishing appropriate payments.

5. Transition from the previous system of SEN allowances and Safeguarding Provisions

The Governing Body should determine a teacher's eligibility for an SEN allowance against the new criteria set out in paragraphs 25.2 and 25.3 of the STPCD (see Appendix 1) and determine a spot value on the range in accordance with parts two and three above and the schools pay policy. In cases where the implementation of the new criteria results in the award of a spot value allowance of a lower value than the SEN allowance that is currently in payment to that teacher, the safeguarding provisions in paragraphs 25.6 to 25.10 of the STPCD may apply for a maximum of three years with effect from 1 September 2010 (see Appendix 3). It is therefore necessary for Governing Bodies to assess all those teachers in receipt of a permanent SEN allowance as at 31st August 2010, and decide whether or not they should still receive one (see Appendix 4).

Teaching staff affected by these changes should be consulted about any proposed revisions and a model letter for this purpose is provided in Appendix 6 (please adapt as necessary). Once, a decision has been made by the Governing Body about how the SEN allowances in their school will be structured, a letter should go to all affected teachers to confirm the impact. A model letter is provided in Appendix 7 (please adapt as necessary).

6. Subsequent changes in SEN provision (following transition) and safeguarding provisions

Where the Governing Body makes a change in the way its SEN provision is organised or to its pay policy such that the criteria and factors cease to be met or now merit the payment of a lower allowance, this could result in the value of the allowance being reduced or withdrawn. In these cases, the Governing Body would need to assess whether the general safeguarding rules under paragraph 43 (and subject to paragraph 5) of the STPCD apply (see Appendix 5).

Appendix 1

Extract from Section 2 of the STPCD 2010 on the Special Educational Needs Allowance Range

- 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
 - (c) the relative demands of the post.

Appendix 2

Suggested Models of Different Payment Levels

Model One: Two Spot Values

Spot Values	Value
Spot Value One	£2001
Spot Value Two	£3954

Model One is based upon the new allowance range being paid at two different point levels, similar to the previous system of two separate and defined SEN allowances.

Model Two: Three Spot Values Banding

Spot Values	Value
Spot Value One	£2001
Spot Value Two	£2977.50
Spot Value Three	£3954

Model Two is formulated by finding the difference between the lowest and highest amounts within the suggested allowance.

Model Three: Four Spot Values Banding

Spot Values	Value
Spot Value One	£2001
Spot Value Two	£2652
Spot Value Three	£3303
Spot Value Four	£3954

Finding the difference between the lowest and highest amounts within the suggested allowance and then dividing this amount by three formulates Model Three.

** Pay Policies would need to make it clear what criteria needs to be met to go from one Spot Value to the next Spot Value. An example could be Spot Value One equates to a mandatory entry point for working in a special school; Spot Value Two equates to increased demands in the role; and Spot Value Three equates to Specialist Qualifications (this should be set out in the Schools Pay Policy).*

Appendix 3

Extract from Section 2 of the STPCD 2010 on Safeguarding Arrangements in connection with the introduction of the new SEN Allowance Range

- 25.6 Where the teacher is no longer entitled to a SEN allowance following the determination under sub-paragraph 5(a) or where the value of the SEN allowance payable following any determination of the amount of the SEN allowance under sub-paragraph 5(b) (“the new allowance”) is lower than the value of the SEN allowance to which the teacher was entitled immediately prior to that determination (“the old allowance”), the relevant body must pay the teacher the safeguarded sum.
- 25.7 The safeguarded sum is the difference between the value of the old allowance and the value of the new allowance or, in the case where the teacher is no longer entitled to a SEN allowance, the value of the old allowance.
- 25.8 Where a safeguarded sum is payable under sub-paragraph 6, the relevant body must notify the teacher in writing, within one month of the determination, of-
- (a) the reason for the determination;
 - (b) the value of the old allowance and the value of the new allowance (if any);
 - (c) the safeguarded sum;
 - (d) that the old allowance is to be replaced with the new lower allowance (or in the case where the teacher is no longer entitled to a SEN allowance, no allowance) on 1st September 2010;
 - (e) the latest date on which safeguarding will end; and
 - (f) the details of where a copy of its pay policy may be inspected.
- 25.9 The teacher must be paid the safeguarded sum until-
- (a) 31st August 2013;
 - (b) the date on which the teacher is awarded a SEN allowance as a result of a subsequent determination by the relevant body that equals or exceeds the combined value of the new allowance (if any) and the safeguarded sum;
 - (c) the teacher ceases to be a classroom teacher;

- (d) the teacher is awarded a TLR as a result of a subsequent determination by the relevant body that equals or exceeds the value of the safeguarded sum;
- (e) the teacher is placed on a higher point on the pay scale set out in paragraph 17.3, 19.2 or 19.3 or first becomes entitled to be paid on the pay scale set out in paragraph 19.2 or 19.3 as a result of a subsequent determination; and the combined value of that point and any allowances equals or exceeds the combined value of the original salary, the new allowance (if any) and the safeguarded sum; or
- (f) the date on which the teacher's employment at the school ends, other than in circumstances to which paragraph 43 applies,

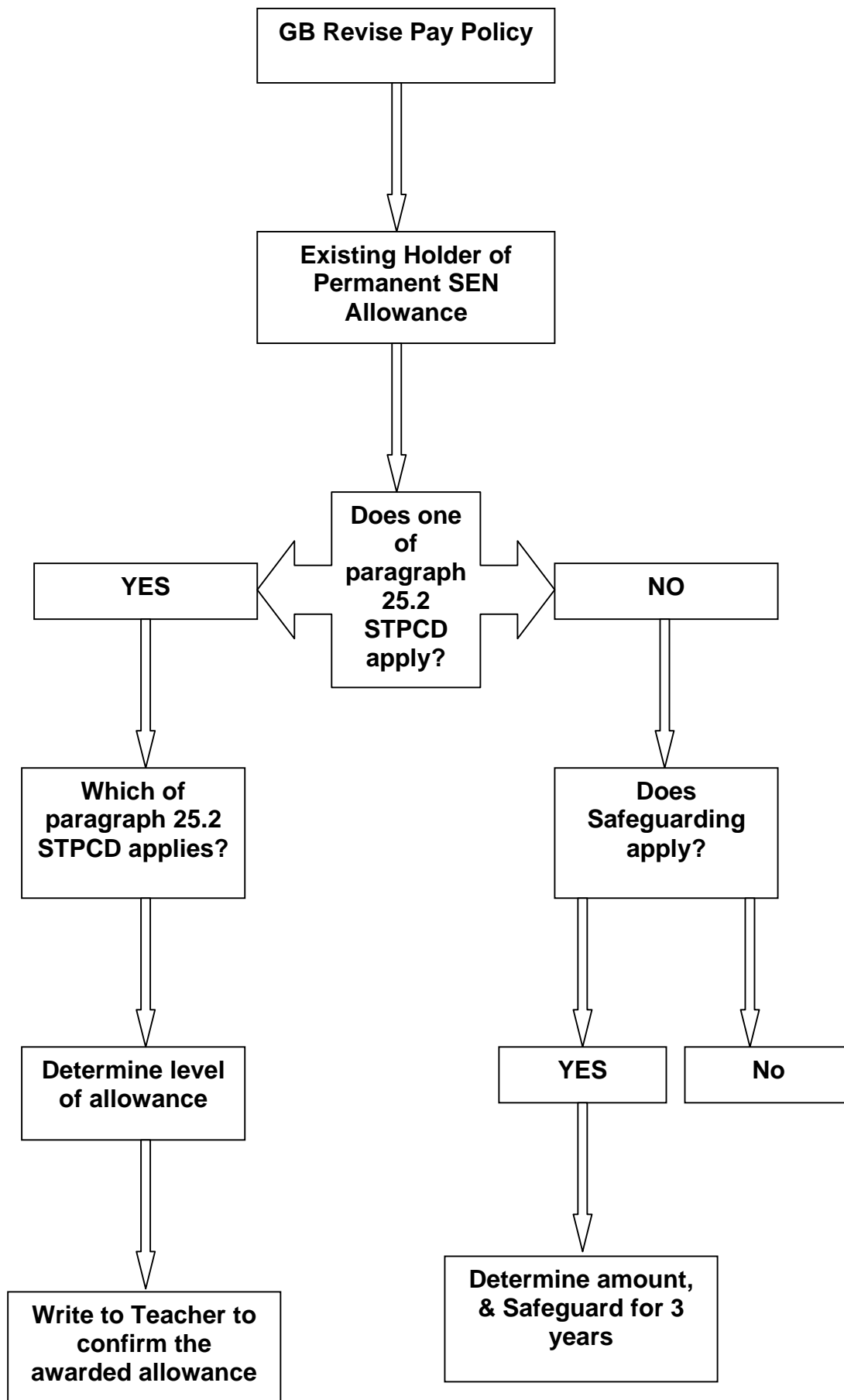
whichever is the first to occur.

25.10 Payment of the safeguarded sum must be-

- (a) discontinued in the case where the teacher occupies a post-
 - (i) as a member of the leadership group,
 - (ii) as an advanced skills teacher,
 - (iii) as an excellent teacher; or
 - (iv) which attracts a TLR which is equal to or exceeds the value of the safeguarded sum,in the temporary absence of the post-holder; and
- (b) reinstated thereafter unless, in the meantime, any of the events specified in sub-paragraph 9 occurs.

Appendix 4

Flow chart to ascertain receipt of allowance



Appendix 5

General safeguarding applicable to teachers taking up post on or after 1st January 2006

- 43.1.1 This paragraph applies to a teacher who loses a post (“the old post”), as a result of-
- (a) the discontinuance of a school;
 - (b) a prescribed alteration to, or the reorganisation of, a school; or
 - (c) the closure or reorganisation of any other educational establishment or service;
- and who then takes up a new post on or after 1st January 2006 (“the new post”) and is employed by the same authority or at a school maintained by the same authority, and in the case of a teacher within paragraph (b) the new post is at a different school.

Teachers paid a safeguarded sum

- 5.1.1 Sub-paragraphs 1.2 and 1.3 apply to a teacher who is paid a safeguarded sum or safeguarded sums under paragraphs 24, 33, 36, 43, 44 and 45.
- 5.1.2 If the safeguarded sums exceed £500 in total, the relevant body must review the teacher’s assigned duties and allocate such additional duties to the teacher as they reasonably consider are appropriate and commensurate with the safeguarded sum, for as long as the teacher continues to be paid the safeguarded sum.
- 5.1.3 The teacher must not be paid the safeguarded sum if the teacher unreasonably refuses to carry out such additional duties, provided that the teacher is notified of the relevant body’s determination to cease paying the safeguarded sum at least one month before it is implemented.

- 5.2.1 Sub-paragraph 2.2 applies to paragraphs 24, 36, 43 and 44, whenever the relevant body is required to consider whether a point of a higher value (“the new point”) or an allowance (including the award of an increase in the value of an allowance made by a decision of the relevant body) (“the new allowance”), or the combined value of a new point and a new allowance, is equal to or exceeds the combined value of a previous pay point and a safeguarded sum.
- 5.2.2 The relevant body must take into account all the safeguarded sums to which the teacher is entitled and cease paying only the safeguarded sum or combination of safeguarded sums that is equal to or less than the total increase in the teacher’s remuneration attributable to the new point or the new allowance.
- 5.3 For the purposes of paragraphs 24, 33, 36 and 44, the safeguarding period ends on the third anniversary of the relevant date; and in the case of a determination made by the relevant body between –
- (a) 1st September and 31st December, the relevant date is 1st January immediately after the end of that period;
 - (b) 1st January and 31st March, the relevant date is 1st April immediately after the end of that period; and
 - (c) 1st April and 31st August, the relevant date is 1st September immediately after the end of that period.

N.B. Safeguarding only applies when the allowance was awarded to a post on a permanent basis. Safeguarding rules do not apply when an allowance has been awarded on a temporary basis such as on fixed term or event linked contracts.

Appendix 6

Model Consultation letter for all teachers in receipt of an 'old' SEN Allowance as of 1 September 2010

Dear XXX

Changes to SEN Allowance arrangements

Background

In the School Teachers' Pay and Conditions Document (STPCD) 2010 changes to the arrangements governing the payment of SEN allowances have been made.

A new allowance range for Special Educational Needs teachers is being introduced with effect from 1 September 2010. This new range replaces the two current separate allowances. The bottom of the range is equivalent to what the lower of the two old SEN allowances would have been from 1 September 2010 had it remained in place and the top of the range is equivalent to what the higher of the two old SEN allowances would have been from 1 September 2010.

As a result of this change, schools are required to place those teachers they decide are eligible to receive an SEN payment on allowances of 'spot value' within the new SEN range, using specified criteria.

For further information on the new SEN allowance range and the criteria that the STPCD specifies should be used in determining where, within the new SEN range, each individual's new spot value allowance should fall, please see Section 2, paragraph 25 and the relevant paragraphs in Section 3 of the STPCD 2010. This is available on the DfE web-site via the following webpage:
<http://www.teachernet.gov.uk/management/payandperformance/pay/>

Invitation to meet

I am writing to give you the opportunity to meet with me regarding these changes to the arrangements governing the payment of SEN allowances because they affect you.

Impact of the change

What the changes to the arrangements governing the payment of SEN allowances mean is that the School has needed – for each teacher in the school currently receiving one of the two fixed SEN Allowances - to determine whether they should continue to receive the Allowance and, if so, the level of the new 'spot value' allowance in each case.

How the changes to the SEN allowance arrangements affect you

The value of your 'old' SEN Allowance is currently £XXXX.

Having applied the criteria laid out in the relevant paragraphs of the STPCD 2010 and in the school's Pay Policy, the school proposes that, with effect from 1 September 2010 the value of your new spot value SEN allowance should be £XXXXX.

OR

Having applied the criteria laid out in the relevant paragraphs of the STPCD 2010 and in the school's Pay Policy, the school has provisionally determined that you will no longer receive a SEN allowance with effect from 1 September 2010.

THEN

Reason for the determination

Please enter the school's reason for making the assessment outlined above

The reason(s) we propose that you no longer receive a SEN Allowance are **XXXX**

OR

The reason(s) we propose that the value of your new SEN Allowance is £**XXXX** are **XXXX**

THEN

Please use if SEN Allowance not increasing and the teacher will not be receiving safeguarding:

The value of your proposed new SEN Allowance is the same as the value of the SEN Allowance 2 you were receiving as of 31 August 2010. Therefore under the proposal you will experience no detriment as a result of this change. **Note to school: those receiving SEN Allowance 1 cannot fall into this category because the minimum of the new SEN range is higher than the value of SEN Allowance 1 as of 31 August 2010 (since the minimum of the range is equivalent to what SEN Allowance 1 would have been from 1 September 2010 had it continued and the 2.3% pay rise applied to it).**

OR

[Please use if SEN Allowance increasing:]

The value of your proposed new SEN Allowance represents an increase in the value of your SEN Allowance of £**XX**.

OR

[Please use if value of SEN Allowance decreasing and will be in receipt of safeguarding sum:]

The value of your proposed new SEN Allowance represents a decrease in the value of your SEN Allowance. Under the proposal you will be entitled to a Safeguarded Sum equal to that decrease in value.

OR

[Please use if will no longer be receiving a SEN Allowance and will be in receipt of safeguarding sum:]

Under the proposal, since you will no longer be receiving a SEN Allowance you will be entitled to a Safeguarded Sum equal to the value of your old SEN Allowance.

Safeguarding

[only include if the value of the teacher's new SEN Allowance is less than the value of their old SEN Allowance as of 31 August 2010 or the teacher is losing their SEN Allowance altogether]

Special safeguarding arrangements have been agreed to protect those staff who experience a reduction in / loss of their allowance. The period of safeguarding will be for a *maximum* of 3 years and will run from 1 September 2010, which is the effective date of the introduction of this change. Therefore the latest date on which the safeguarding can end is 31 August 2013.

Pay Policy

The Pay Policy on which this proposal is based is available in school, in the XXXX

Implementation

If you would like to meet to discuss the proposal above, please contact me in the next 5 working days. If you wish to make any representations after having met, or without meeting with me, please feel free to do so. The deadline for any representations is 10 working days after the meeting or XX if no meeting takes place.

If you do wish to attend the meeting you can bring a colleague or union representative with you if you wish.

Once I have met with everyone who wishes to attend a meeting and the consultation period is over, I will write again formally notifying you how this change in the SEN allowance arrangements will affect you.

If your salary is reducing as a consequence of the change you will receive confirmation of the actual reduction and the arrangements for salary safeguarding at that time.

These changes are being implemented retrospectively in schools across the country due to the fact that the final version of Section 2 of the STPCD only became available at the beginning of September 2010.

If you have any queries on these changes please do not hesitate to contact (***enter name of in-school contact***) in the first instance.

Yours sincerely

Headteacher

Appendix 7

Model Notice of Change Letter for all teachers in receipt of an 'old' SEN Allowance as of 1 September 2010

Dear XXX

Changes to SEN Allowance arrangements

Further to my letter of XXX, and our recent meeting [delete if not applicable] I am writing to formally notify you of how the changes to the arrangements governing the payment of SEN allowances (which I summarised in my earlier letter) will affect you.

Notification of how the changes to the SEN allowance arrangements affect you

The value of your old SEN Allowance was £XXXX

Having applied the criteria laid out in the relevant paragraphs of the STPCD 2010 and in the school's Pay Policy, the school has determined that the value of your new spot value SEN allowance should be £XXXXX, effective from 1 September 2010.

OR

Having applied the criteria laid out in the relevant paragraphs of the STPCD 2010 and in the school's Pay Policy, the school has determined that you will no longer receive a SEN allowance with effect from 1 September 2010.

Reason for the determination

Please enter the school's reason for making the decision outlined above

The reason(s) we have determined that you no longer receive a SEN Allowance are XXXX

OR

The reason(s) we have determined that the value of your new SEN Allowance is £XXXX are XXXX

THEN

[Please use if SEN Allowance not increasing and the teacher will not be receiving safeguarding:]

The value of your new SEN Allowance is the same as the value of the SEN Allowance 2 you were receiving as of 31 August 2010. ***Note to school: those receiving SEN Allowance 1 cannot fall into this category because the minimum of the new SEN range is higher than the value of SEN Allowance 1 as of 31 August 2010 (since the minimum of the range is equivalent to what SEN Allowance 1 would have been from 1 September 2010 had it continued and the 2.3% pay rise applied to it).***

OR

[Please use if SEN Allowance increasing:]

The value of your new SEN Allowance represents an increase in the value of your SEN Allowance of £XX.

OR

[Please use if value of SEN Allowance decreasing and will be in receipt of safeguarding sum:]

The value of your new SEN Allowance represents a decrease in the value of your SEN Allowance of £XX. You will be entitled to a Safeguarded Sum equal to that difference in value.

OR

[Please use if will no longer be receiving a SEN Allowance and will be in receipt of safeguarding sum:]

Since you will no longer be receiving a SEN Allowance you will be entitled to a Safeguarded Sum equal to the value of your old SEN Allowance.

Safeguarding

[only include if the value of the teacher's new SEN Allowance is less than the value of their old SEN Allowance or the teacher is losing their SEN Allowance altogether]

Special safeguarding arrangements have been agreed to protect those staff who experience a reduction in / loss of their allowance. The period of safeguarding will be for a *maximum* of 3 years and will run from 1 September 2010, which is the effective date of the introduction of this change.

This period of safeguarding will end prior to the three year maximum period (which ends on 31 August 2013) if any of the following conditions are met earlier than 31 August 2013:

[Please use if will no longer be receiving a SEN Allowance]

- You are awarded a SEN Allowance that equals or exceeds the value of your safeguarded sum;
- You cease to be a classroom teacher;
- You are awarded a TLR that equals or exceeds the value of the safeguarded sum;
- You are placed on a higher point on your pay scale or first become entitled to be paid on the Upper Pay Scale and the combined value of your new pay point and any allowances equals or exceeds the combined value of your original salary and the safeguarded sum
- Your employment at the school ends, other than in the circumstances to which paragraph 43 in the STPCD applies (ie the closure or prescribed alteration of the school)

OR

[Please use if the value of the new SEN Allowance is less than the value of their old SEN Allowance]

- You are awarded a SEN Allowance that equals or exceeds the combined value of your new SEN Allowance and the safeguarded sum;
- You cease to be a classroom teacher;
- You are awarded a TLR that equals or exceeds the value of the safeguarded sum;
- You are placed on a higher point on your pay scale or first become entitled to be paid on the Upper Pay Scale and the combined value of your new pay point equals and any allowances equals or exceeds the combined value of your original salary, your new SEN Allowance and the safeguarded sum
- Your employment at the school ends, other than in the circumstances to which paragraph 43 in the STPCD applies (i.e. the closure or prescribed alteration of the school)

Pay Policy

The Pay Policy on which this determination and its reason(s) are based is available in school, in the **XXXX**

Please contact me if you have any queries regarding this letter.

Yours sincerely

[Name]