

Who is eligible to join the Scheme?

January 2022

Who can join?

If an individual is employed by a participating employer in a predominantly teaching role, and they are between the age of 16-75, they're eligible for enrolment into the Teachers' Pension Scheme.



What role does a teacher perform?

The Teachers' Pension Scheme Regulations do not expressly define what 'teaching work' is, so we rely on other definitions of teaching found in regulations such as the Teachers' Disciplinary (England) Regulations 2012, Regulation 3, which states that 'teaching work' is:

- '(1) Subject to paragraph (3), each of the following activities is teaching work for the purposes of these Regulations—
- (a) planning and preparing lessons and courses for pupils(1);
 - (b) delivering lessons to pupils;
 - (c) assessing the development, progress and attainment of pupils; and
 - (d) reporting on the development, progress and attainment of pupils.
- (2) In paragraph (1)(b) "delivering" includes delivering lessons through distance learning or computer aided techniques
- (3) The activities specified in paragraph (1) are not teaching work for the purposes of these Regulations if the person carrying out the activity does so (other than for the purposes of induction) subject to the direction and supervision of a qualified teacher (2) or other person nominated by the head teacher to provide such direction and supervision.'

For traditional teaching roles, where timetabled classes or lectures take up the entirety or most of the role they perform, their role would fall under the definition of 'teaching work'.

(3) above would relate to the role of a 'teaching assistant' which would fall under the Local Government Pension Scheme (LGPS). Any role which does not constitute 'teaching work' would also fall under the LGPS.

There are a limited number of roles, such as Youth and Community workers and Educational Organisers, which fall under the Teachers' Pension Scheme Regulations in certain circumstances. Please refer to 'What is an organiser?' section below.

Executive Heads and CEOs

For roles such as an Executive Head or Chief Executive Officer within a school, it's unlikely that they'll fulfil all parts which make up 'teaching work' but that's not to say that those roles would not qualify for membership of the Scheme. If eligible, these roles will usually qualify under part (c) and (d) of Regulation 3 above, however the following points must be considered by participating employers:

The person must undertake some academic and teaching roles. Any CEOs and Executive Head Teachers that occupy a financial or administrative role wouldn't be eligible for membership of the Scheme.

- There must be a degree of proximity to the pupil or student. If an individual is not directly responsible for the development, progress and attainment of a student(s), the individual will fall outside of the scope of eligibility. For example, a Chief Executive Officer (CEO) who delegates all teaching work to others i.e. to the head teachers at each school in the Academy Trust
- There'll be occasions where an individual may have two roles (split 50/50), which may be best served as two separate contracts. One may relate to their teaching work and covered by the Scheme, whereas the other would fall outside of it in respect of their non-teaching work. If these roles are separated, it makes the eligibility of the role simpler to determine.

What is an organiser?

There are circumstances where other individuals may be eligible for membership of the Scheme, without necessarily being involved in teaching work as described above. In the TPS 2010 Regulations this individual would be described as an 'organiser'.

An 'organiser' is 'a person who performs duties in connection with the provision of education or services ancillary to education other than administrative services.'

It should be noted that an individual will only be eligible for the role of an 'organiser' if their employer is one of the following:

- (i) a diocesan board of education established under the Diocesan Boards of Education Measure 1991;
- (ii) a body affiliated to the National Open College Network;
- (iii) a Roman Catholic diocesan schools commission;
- (iv) the Inspiring Futures Foundation;
- (v) the Royal National College for the Blind;
- (vi) the Stapleford Centre.

It should be noted that most 'organisers' would fall under the LGPS unless specifically referred to in the Teachers' Pension Scheme Regulations, as outlined above.

Who makes the decision?

It's for each employer to determine the eligibility of the individual for membership of the Teachers' Pension Scheme in accordance with the Regulations. This is because the employer is more likely to understand the main thrust of a person's job role in line with a person's contract of employment, rather than Teachers' Pensions.

Should it come to light at a future date that the individual has been included incorrectly in the Scheme, action will be taken to correct the position.

Care should be taken in this matter, and employers should be particularly careful about those members who start in a teaching role but may have a change in role later on in their career, which means that they're no longer eligible to remain in the Scheme.

For this reason, an employer may wish to consider expressly stating the weight of 'teaching' in an individual's job description as this will provide evidence the employer can use, should a question be raised about the individual's eligibility.

If an individual is incorrectly placed into membership of the Scheme, action will be taken to correct the position and the contributions refunded; so, it's important that employers carefully consider and assess individual roles before taking a decision as to which pension scheme is most appropriate.