Universities Superannuation Scheme (USS) Briefing – Nov 2021

Background – 2017 Valuation

In April 2018 it was agreed that an independent Joint Expert Panel (JEP) would be set up to look at the 2017 valuation and that recommendations would then be made to the Trade Unions and the UUK.

Unite submitted evidence to the JEP stating:

- Unite believe that, in general, the discount rates used in the USS valuations are overly pessimistic. The approach being taken both reflects and encourages overly cautious investment strategies focussed on the short-term rather than the long term.
- What is needed is a greater emphasis on the long term funding position as will allow greater investment in return-seeking assets. The USS discount rates should be based on the expected returns which the USS actually hold, with a margin for prudence, rather than a gilts-plus methodology. This is particularly important now as the margin between expected returns on gilts and on other assets has widened markedly.
- The advantage that the USS has is that it's an open scheme, so it shouldn't therefore be trying to replicate the funding and investment approach of a closed scheme. The "strong" covenant allows the USS to maximise the investment advantages of an open scheme, which in turn will help maintain a sustainable contribution rate for the employer and secure benefits for members.
- Ultimately the USS doesn't have to value its liabilities on a gilt yield discount rate basis. The value of a "uniquely robust", "strong" aggregate covenant is completely wasted if that approach is taken.

The JEP produced its first report in September 2018.

The JEP report backed up what Trade Unions have been saying in that the valuation basis was too prudent and that the total contribution of 26% at the time did not need to increase to 37.4% from April 2020 as had been proposed. The JEP said that this could be reduced to 29.2% to fund current benefits.

However the USS ignored the advice from the JEP and argued it would store up problems with "pernicious consequences" for the higher education sector.

Given the timescales of the processes involved, USS said it "can't now avoid the proposed April 2019 contribution increase - but they hope an alternative way forward will be agreed before the significantly higher cost-sharing increases are planned to come into effect from 1 October 2019 onwards".

The USS Joint Negotiating Committee backed universities' proposals to raise members' USS contributions from 8.8% to 9.6% of their salary. This change was implemented and the rate was shared 65:35 between employers and members respectively (21.1% for employers and 9.6% for members from October 2019).

Latest – 2020 Valuation

The 2020 valuation has led to similar disagreements and the USS and now saying that contribution rates need to increase significantly again from a total of 30.7% currently to in the most favourable scenario 42.1% and in the least favourable scenario, that figure would be as high as 56.2 per cent.

Pensions Investment Consultant Aon has also criticised the methodology and assumptions underlying the USS trustee's response to the USS valuation, accusing it of being overly prudent and failing to properly justify several of its assumptions.

Almost 4,000 people signed a letter in January 2021 attacking the proposals. The letter accused the valuation methodology of having "little empirical or theoretical justification".

Then, in March, 2021 USS chair Dame Kate Barker rejected a request by UUK to conduct a formal review of the assumptions underlying the valuation and its resultant scenarios, arguing that there would be no justification for doing so unless new information was presented, or until UUK could offer an alternative plan.

Aon's report, prepared for UUK, criticised the assumptions the USS trustee is sticking to, not least over the discount rate, where it says the trustee is being "overly prudent". The report continued: "We believe there is scope for the USS trustee to revisit the discount rate — particularly in light of different covenant support and benefit packages, which may enable a resolution to the valuation. We also note that favourable market movements after the valuation date may help."

Again Trade Unions, employer representative and the Universities UK (UUK) have argued that these increases are not necessary and have not been properly justified. However, instead of continuing to challenge the increases, UUK has pushed through major changes and cuts to the guaranteed, defined benefit (DB) element of the scheme to prevent employers from having to pay significantly higher contributions.

More Proposed Members Pension Cuts

The UUK cuts will drastically reduce the level of guaranteed retirement income provided to members of USS in return for their future service (benefits already built up will not change). They will affect every active member of USS but especially those nearer the start of their careers.

These proposed cuts come in the context of a decade of detrimental changes to USS contributions and benefits. The changes that have already taken effect between 2011 and 2019 alone will make a typical member of staff £240,000 worse off over the course of their career and retirement.

Now further proposals including decreasing the salary cap for the scheme from £60,000 a year to £40,000 a year, capping indexation at 2.5 per cent a year, and reducing the rate members' pensions accrue from 1/75th of salary to 1/85th of salary and the creation of a DC only scheme aimed at lower paid staff. These further proposed cuts from UUK will make things even worse.

What's the legal action against the USS Trustee?

The High Court is set to review four claims against Universities Superannuation Scheme (USS) Limited on behalf of all members of its pension scheme, after more than 1,500 university staff members launched legal action.

Proceedings were issued in the High Court Friday 29 October 2021 with notice also served at USS directors' offices. Legal action was brought by University of Bristol UCU pension representative Dr Neil Davies and Kings College London UCU committee president Dr Ewan McGaughey, with the two confirming the lodging of documents on legal action crowdfunding platform CrowdJustice. There is potential for further legal action from UCU nationally.

The first of the four claims is that the valuation of the pension in a stock market crash and its methodology is a breach of duty, or at least a misuse of directors' powers that fails to take into account relevant considerations of assets' recovery.

The second claim is that the proposed cuts amount to unlawful discrimination, as they hit women, ethnic minorities, and young people the most.
The third claim is that USS directors have driven a super-inflation in asset management and total operating costs in a way that services themselves and not the company.

The final claim is that failure to divest from fossil fuels has caused, and will continue to cause, significant financial detriment against the interests of the beneficiaries.

What is Conditional Indexation (CI)?

Not currently within the USS but Conditional Indexation (CI) involves annual increases to pension benefits – above any statutory minimum increases – may be dependent on scheme investment returns and not guaranteed. (This may be considered, for future benefits, by stakeholders after the 2020 valuation.)

All member USS statutory consultation

All members who are active members of USS or eligible to join USS are entitled to respond to the consultation launched on 1 November which is seeking comments from affected employees and union reps on:

- the Joint Negotiating Committee (JNC)'s recommended package of benefit changes and
- the alternative contribution rates which will take effect from 1 April 2022 if the changes recommended by the JNC are not implemented before then.

Please share this information with our members to support them in responding to the consultation.

Unite's position

- Unites view has always been that because the USS have not implemented in full the JEP recommendations it means the required future service contribution rate is still overstated.
- Unite has always believed that the USS trustees should adopt the JEP recommendations in full.
- Employers currently contribute 21.4% of salary, but USS itself has determined that employers can afford to pay a 24.9% contribution rate on a long term basis.
- Unite members want employers to revoke the massive cuts, which they are imposing on members of the USS pension scheme. Once those cuts have been revoked, employers should negotiate an alternative resolution to the 2020 valuation.
- Any agreement must protect members' benefits as far as possible and ensure that lower paid and precariously employed staff can afford to join the scheme at an affordable contribution rate.
- Unite also wants the UUK to support the Trade Union call for USS to conduct a new, moderately prudent, evidence-based valuation as soon as possible. It is clear that the 2020 valuation is not an adequate basis for a long-term resolution of this dispute. To resolve the dispute, trade union members need to be confident that future valuations will be realistic reflections of the underlying strength of the scheme and the higher education sector, and that members' contribution rates and benefits will return at least to the level they were at before.