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Universities Superannuation Scheme (USS)

Summary

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Summary

The Universities Superannuation Scheme (USS) is the UK's largest private occupational pension scheme by assets, with £80.6 bn of assets under management in March 2021. It is a multi-employer scheme with 343 participating employers and a total of 476,000 members. It is run and managed by its Trustee (USS Annual Report and Accounts for year ended March 2021).

Following reforms to the scheme introduced in 2016, members build up rights in a defined benefit (DB) scheme (which provides pension benefits based on salary and length of service) up to a salary threshold of £59,883.65 (2021/22). On salary above that level, they build up rights in a defined contribution (DC) scheme (i.e. where the outcome depends on a range of factors – the level of contributions, investment returns, and decisions made at retirement). Information for scheme members is on the USS website, as are scheme rules.

Members contribute 9.6% of their salary to the scheme, employers 21% (30.7% in total).

Scheme funding requirements

Like other private sector DB schemes, the USS is funded. This means contributions from scheme members and employers are paid to a fund which is invested and used to pay pensions to pensioner members.

Funded DB schemes are required to conduct valuations every three years. This involves an actuary estimating the value of the scheme's assets and liabilities (the cost of the pension promises that have been built up). If the result is that the scheme is in deficit (assets are less than the liabilities), the Trustee must draw up a 'recovery plan' to repair this and submit the plan to the Pensions Regulator.

The outcome of any valuation is sensitive to the assumptions made (for example, about how long scheme members will live, earnings growth, investment returns and the extent to which participating employers are willing and able to increase financial support if needed). Also critical is the "employer covenant," which represents the extent of the employer's legal obligation and financial ability to support the scheme now and in the future, including dealing with downsides such as a deterioration in the funding position. This informs the trustee's approach to investment risk (TPR, Code of Practice No 3, para 61-2).

The legislation for the pension scheme funding regime is in the Pensions Act 2004, Pt 3 (as amended) and the regulations made under it. The Pensions Regulator (TPR) is responsible for regulating scheme funding in accordance with its statutory objectives (which include protecting the benefits of pension

scheme members and reducing the risk of calls on the Pension Protection Fund) (PA04, s5). The aim is not to "eliminate all risk to members' benefits" but rather to "strike a reasonable balance" between the demands on the employer and the security of member benefits (Cm 9412, Feb 2017, Executive Summary). For more detail, see Defined benefit pension scheme funding, Commons Library Briefing Paper, CBP 4877, July 2021.

USS valuation process

The valuation process for the USS is complex, reflecting its nature as a multi-employer scheme:

- The Trustee starts the process one to two years in advance of the valuation date with an assessment of core assumptions, such as participating employers' attitude to investment risk and their willingness and capacity to increase support for the scheme. Universities UK (UUK) consults employers as part of this process.
- Once the valuation has been done, the Joint Negotiating Committee (made up of an equal number of nominees from UUK and the University and College Union (UCU) and an independent chair) determines how any contribution increases should be shared between employers and scheme members, and/or to recommend benefit changes to manage any deficit.

The rules of the scheme ultimately enable the Trustee to impose contribution rates, a feature that is unusual in DB schemes (Joint Expert Panel report, December 2019, Annex 6).

The approach taken to risk in valuations of the USS has been the subject of intense debate in recent years. Other things being equal, a more cautious approach to investment risk will require a higher level of contributions to fund a given level of benefits, because the expected return on assets is lower.

2017 valuation

For the 2017 valuation, the Trustee said it was "required by law to set assumptions prudently for the valuation" to allow a margin in case of adverse experience. On this basis, the USS had a deficit of just over £5bn. Taking a less cautious approach would have given a very different result. For example, on a "best estimate" view (a 50% probability that investment forecasts are met or exceeded), the scheme had a surplus of £8.3 billion. Under the Trustee's proposals, the contribution rate would need to increase by six to seven percent to meet the cost of the current package of benefits (USS 2017 Actuarial Valuation. Consultation with UUK, 1 Sept 2017 p6-22).

In September 2017, UCU published a report by First Actuarial arguing that a focus on the flow of cash in and out of the scheme was helpful in showing what investment returns were needed. Its analysis showed that the "benefits of the USS can very nearly be paid from contributions, without reliance on the assets. There is no need to change either the contribution rate or the benefits to have a prudent funding plan. The strong likelihood is that the USS can be invested to outperform the return required to safely deliver the benefits." The approach taken by the Trustee risked a vicious circle. It had responded to employers' concern that contribution rates should not increase by setting a higher funding target and lower investment risk - two actions which are guaranteed to put the employers' contribution rate up (Progressing the valuation of the USS, First Actuarial, September 2017, p7 and conclusion).

In response, the Trustee said the approach proposed by First Actuarial contained an unacceptable level of risk. Positive cash flow could not by itself justify taking more risk (USS Trustee, Response to First Actuarial Report on Technical Provisions consultation). UUK said the Trustee had a legal duty to take a "prudent" approach, taking into consideration possible risk exposure to employers of an adverse scenario. It said that "even if it were lawful, the approach proposed by First Actuarial would place much too great a risk on employers and would not provide sufficient evidence that accrued benefits are secure." (USS valuation – questions and answers, UUK, Feb 2018, p15).

On 14 November 2017, the Trustee said UUK's response to consultation had indicated that it should take a more cautious approach still – increasing further the deficit and the level of contributions required (UUK responds to USS consultation, p2; UUK statement on risk, 28 March 2018).

Pension benefit cuts were proposed and there was industrial action in early 2018. Talks at ACAS concluded on 12 March 2018 with UUK and UCU agreeing to retain a less generous defined benefit scheme for three years from 2019 and, for the future, to investigate different models of pension provision in which there was greater sharing of risk between employers and employees (such as Collective Defined Contribution). This agreement was rejected by UCU members on 13 March 2018.

On 23 March 2018, UUK and UCU agreed to set up an independent expert panel to review the 2017 valuation. Its work would "reflect the clear wish of staff to have a guaranteed pension comparable with current provision whilst meeting the affordability challenges for all parties." Current contribution rates and pension benefits would continue until at least April 2019.

Joint Expert Panel

In its first report published in September 2018, the JEP said the flow of cash in and out of the scheme was positive (contributions exceeded the cost of pensions in payment) and was projected to remain so for the next 50 years. Together with the strength and long-term nature of the higher education (HE) sector, this meant that, unlike the vast majority of occupational scheme trustees, the USS Trustee could afford to take a very long-term view. The JEP recommended adjustments to the 2017 valuation which it said could have a material impact on the scale of the estimated deficit and the required contribution increases (Report of the Joint Expert Panel, September 2018).

The Trustee agreed to conduct a further 2018 valuation, to allow time for the JEP's recommendations to be considered. In the end, although it accepted two of the recommendations, it rejected four others, on grounds that they would have introduced additional risk and TPR had said the 2017 valuation was already "at the limit" of complying with the legal requirement for prudence. The Trustee said again that prudence was a legal requirement and reflected the "nature of the financial commitments being made to USS members" (The Joint Expert Panel's recommendations. Prudence in the 2020 valuation, USS briefings, March 2021).

In its second report published in December 2019, the JEP recommended changes to the valuation process more generally which it hoped would foster a more co-operative environment. Its chair, Joanne Segars OBE, called on employers, unions and the Trustee to come together to make this work, saying "it would be failure for scheme members, sponsoring employers and the sector if our recommendations are not seriously considered" (Report of Joint Expert Panel, December 2019). The report was followed by a series of Tripartite meetings which resulted in changes to the valuation process, such as the agreement of shared valuation principles. The Trustee said in an update in March 2021, "there are still issues on which we disagree", reflecting "differences of opinion, perspective and duty"(USS: the Joint Expert Panel's recommendations, March 2021). These are differences are being tested in the course of the 2020 valuation.

2020 valuation

In an update on the 2020 valuation in March 2021, the Trustee said that the deficit in the scheme had increased and would require increased commitments from employers. It presented UUK with different scenarios for the estimated deficit (ranging from £14.9 bn to £17.9 bn) and the required contribution rates (ranging from a total of 42.1% to 56.2%), each depending on the support measures employers were prepared to put in place (USS, Update on the 2020 valuation, March 2021, Table 2).

In April 2021, UUK launched a consultation on a package of proposals (comprising increased employer support and reductions in benefits for future service) designed to keep total contribution rates at 30.7%. Additional employer support was necessary because the Trustee was otherwise prepared to impose "impossible contribution requirements regardless of the impact on members and employers:"

> Whether we agree with the rationale or not, it is clear from the scenarios set out that the USS Trustee is prepared to insist that the scheme deficit is paid off quickly – something which is materially (and disproportionately) detrimental to the immediate generation – if employers do not provide the covenant support measures the USS Trustee has requested.

The proposed employer support measures related to a moratorium on exits from the scheme, new arrangements for the monitoring of debt levels among USS employers, and the granting of equal security for the scheme on any new secured debt. Benefit reductions were also proposed, with the aim of enabling contribution rates to remain at their current levels. UUK also called for a review of scheme governance, saying "trust and confidence in the scheme have been strained in recent years" (The USS 2020 valuation. Finding the right solution, UUK, April 2021, summary and section 3).

On 21 July 2021, UUK said employers had agreed to provide additional financial backing. The Trustee had confirmed that this would enable contribution rates to remain very close to current levels, assuming UUK's package of benefit reductions was implemented.

UCU called for UUK to join it in calling for a new 2021 valuation to replace the "flawed 2020 valuation" or face a ballot for industrial action:

> UCU's and UUK's advisors have criticised USS's methods and assumptions and the choosing of 31 March 2020 as the date to value the scheme, when markets were crashing due to the pandemic. The joint expert panel of pensions specialists that UCU and UUK set up has shown that defined benefits are affordable (UCU responds to UUK statement on USS support, 21 July 2021).

The next step is for the Joint Negotiating Committee (made up of employer and union representatives) to agree changes, which it has said it will do by the end of August (2020 valuation timetable – USS website).

1 Introduction

The Universities Superannuation Scheme (USS) is a multi-employer defined benefit (DB)[1] occupational pension scheme. It is set up under a trust and has rules that set out what benefits and contributions are payable and how it is to be administered. It is run and managed by its Trustee, USS Ltd.[2]

Since it was set up it has grown considerably, with almost half a million members and 343 participating employers today, compared to just 13,000 members and 180 participating employers in 1974.[3] Of the 476,002 members in March 2021, 203,995 were active (in service and making contributions), 77,963 were pensioners and 194,044 were deferred members (who left service early with preserved pension rights they can draw at pension age).[4]

Following reforms in 2016, it is a hybrid scheme made up of two parts:

- A Retirement Income Builder - which provides benefits based on career average revalued earnings, up to a salary threshold. Members built up benefits at a rate of 1/75 of each year's salary (up to the salary threshold - £59,883.65 in 2021/22) plus a tax-free cash lump sum of 3 x pension. Members contribute at a rate of 9.6% of salary. The normal pension age is linked to the State Pension age, currently 66.
- For salary above the threshold there is a separate defined contribution (DC) scheme – USS Investment Builder.[5]

The final salary section of the USS was closed for future service from April 2016. Benefits built up before that date are calculated using pensionable service and salary on that date, revalued in line with inflation until retirement. At retirement, an individual's final salary and Retirement Income Builder benefits are combined into an annual pension and one-off cash lump sum.[6]

Guides for scheme members and scheme rules are on the USS website.

1 In a defined benefit scheme, the amount of pension is based on how many years the individual has worked for their employer and the salary they have earned – Money Helper Service/defined benefit pension schemes explained

2 USS/About us/How we are governed

3 Report of the Joint Expert Panel, December 2019. Information about employers eligible to participate in the USS is on the scheme website

4 USS, Annual Report and Accounts for year ended March 2021, p15; Deferred members have built up pension benefits in a scheme but are not yet receiving them and are no longer contributing

5 In a defined contribution scheme, individuals build up a pot of money. The income they might get depends on factors such as the contributions made, investment returns and decisions made at retirement. Money Helper Service – defined contribution schemes explained

6 USS website/for members/your benefits before April 2016

2 Scheme valuations

2.1 Statutory scheme funding requirements

Like other defined benefit (DB) schemes, the USS is subject to scheme funding requirements introduced under the Pensions Act 2004 and overseen by the Pensions Regulator (TPR). This requires trustees to:

- Draw up a statement of funding principles, setting out how it intends to meet the objective that the scheme has 'sufficient and appropriate assets' to meet its liabilities;
- Obtain a full actuarial valuation of their scheme at least every three years; and
- Where the scheme is in deficit, prepare a recovery plan setting out the steps that will be taken to meet the funding objective over what time frame.[7]

The aim is not to "eliminate all risk to members' benefits" but rather to "strike a reasonable balance" between the demands on the employer and the security of member benefits.[8]

TPR regulates the scheme funding requirements in line with its statutory objectives – which include protecting the benefits of pension scheme members and reducing the risk of calls on the Pension Protection Fund (PPF).[9]

Amendments in the Pension Schemes Act 2021 (section 123) will enable trustees to opt to conduct a valuation in accordance with TPR's guidelines. Alternatively, they can opt for a 'bespoke' approach (which means they can argue for more flexibility to account for the specific circumstances of the scheme) but will need to fully articulate and evidence this and can expect more involvement from TPR in the process. An issue of debate when the legislation was before Parliament was whether this framework was flexible enough to allow open schemes such as the USS to develop an approach appropriate to their circumstances. It was argued that requiring them to take the same approach as 'closed schemes' would result in them having to take an unnecessarily cautious approach to investments, given the longer investment horizon and the longer time they have until they become

7 Pensions Act 2004, s224; Occupational Pension Schemes (Scheme Funding) Regulations 2005 (SI 2005/3377)

8 DWP, Security and Sustainability in Defined Benefit Pension Schemes, Cm 9412, Feb 2017, Executive Summary

9 Pensions Act 2004, s5; TPR, Code of Practice 03, July 2014, introduction

significantly mature.[10] This is discussed in more detail in Pension Schemes Bill 2019-21, Commons Library Briefing Paper CBP 8693, Jan 2021, section 5.1.

2.2 Process for USS valuations

There are features of the USS valuation process which are specific to it, reflecting its complex nature as a multi-employer scheme, and set out in its rules:

- The valuation process is initiated by the Trustee, typically 1-2 years ahead of the valuation date. This stage includes assessment and consultation on factors that will determine the assumptions used in the valuation, such as the sponsoring employers' attitude to risk and their willingness and capacity to increase financial support if the scheme is underfunded.

- The Joint Negotiating Committee (JNC)– which is made up of equal numbers of nominees from Universities UK (UUK) and the University and College Union (UCU) and an independent chair - takes the outcome of the valuation into account to determine how any contribution increases (if required) will be shared between sponsoring employers and Scheme members, and/or recommend benefit changes to manage any deficit.[11]

The rules of the Scheme provide the Trustee with unilateral powers over the level of contributions required to fund the scheme. It can impose contribution rates, a feature that is unusual in DB schemes. In the event of the JNC being unable to agree, scheme rules provide for any increase in contributions to be shared 35:65 between members and employers.[12]

For more detail, see Second Report of the Joint Expert Panel, December 2019, Annex 6.

2.3 JEP recommendations

The Joint Expert Panel (JEP) was set up by the University and College Union (UCU) and Universities UK (UUK) in March 2018, following talks at ACAS. It was made up of senior figures from the pensions sector as well as academic experts from within higher education and chaired by Joanne Segars OBE, former director of the Pension and Lifetime Savings Association. For its first

10 DB funding code needs more work to take account of the needs of every kind of scheme, PLSA, 2 Sept 2020
11 Joint Expert Panel Report, September 2018, p25; Joint Expert Panel Report, December 2019, App. 6
12 Ibid, p111; Rule 76

report published in September 2018, it undertook a retrospective review of the 2017 valuation, including an assessment of the methodology, assumptions and process underpinning it. As discussed in section three below, the JEP recommended adjustments to the methodology to enable the 2017 valuation to be concluded.[13]

In its second report in December 2019, the Joint Expert Panel on the USS, said current approach did not foster a cooperative environment:

> the valuation and its methodology drive all else, including the relationship between the Stakeholders and between the Stakeholders and the Trustee. As we said in our first report, this leads to a valuation outcome which is 'test-driven'. The relationship issues appear to be reinforced by the Scheme Rules which do not foster a cooperative environment within which the Stakeholders can work well together.[14]

Some stakeholders argued that the Trustee used "excessively prudent assumptions" to estimate the cost of future service benefits, leading to higher than necessary costs in the short-term. While sympathetic, the JEP said not all of these views took "full account of the responsibilities of the Trustee or of the DB funding code and requirements of TPR." The JEP took the view that there was scope for the Trustee to take some more risk:

> The Panel believes that it is appropriate for the Trustee's approach to risk in the Scheme to focus on there being not enough money in the Scheme to pay pensions on an on-going basis. However, the Panel also believes that the Trustee is overly concerned about short-term TP funding and self-sufficiency rather than long-term sustainability and affordability. The more that the short-term becomes the focus and the monitored gap in funding is published, concerns about the sustainability of the Scheme become heightened beyond where is necessary. While short-term movements in interest rates or investment returns are important to monitor, and a triennial valuation and funding of any gap necessary, it is the 30 to 40-year outcomes that matter more since USS is not in a position of having to sell assets in poor conditions.[15]

It recommended changes to the valuation methodology and governance process. It made a series of interlocking recommendations covering the governance of the Scheme, the valuation methodology, and the way forward:

- the establishment of a new, jointly agreed purpose statement and shared valuation principles;
- creation of a series of joint bodies within USS including a valuation forum and a high-level joint union/employer

[13] Joint Expert Panel Report, September 2018

[14] Report of Joint Expert Panel, December 2019

[15] Ibid p61-2

steering committee to agree issues relating to the future direction of the Scheme;

- improvements to the operation of the Joint Negotiating Committee which comprises UCU and UUK representatives.
- agreement to a more appropriate valuation methodology driven by the agreed purpose of the scheme and a re-articulation of the Trustee's, employers' and employees' risk appetites;
- the adoption of a dual discount rate approach to the USS valuation which would distinguish between past and future service, better reflect the demographics of the Scheme and automatically evolve as the Scheme matures; and
- investigation of different approaches to contributions in order to address the high level of Scheme opt outs among younger and lower paid staff.[16]

A "dual discount rate approach" involves splitting the valuation into two components, allowing pensions in payment to be valued on the basis of a low-risk portfolio and those in build-up according to a higher degree of risk.[17]

Chair of the JEP, Joanne Segars OBE, called on employers, unions and the Trustee to come together to take the recommendations forward:

> Our recommendations, which should be considered as a package, are rooted in the belief that the USS is of crucial importance to members, employers and to the health of the higher education sector […] The JEP does not underestimate this task, but we believe that it would be failure for Scheme members, sponsoring employers and the sector if our recommendations are not seriously considered.[18]

Response

There was support for the Panel's high-level recommendations of the JEP's second report from the Pensions Regulator, the Trustee, UUK and the UCU.[19]

The Trustee reported in March 2021 that new forums had been set up to exchange views on the valuation methodology and consider the modelling. This had resulted in the agreement of shared valuation principles. UCU and UUK had agreed a joint purpose statement for the Scheme, compatible with

[16] Second report of the JEP press release, December 2019; Report of Joint Expert Panel, December 2019
[17] Ibid p64
[18] Ibid
[19] PQ 21335 2 March 2020

the Trustee's own purpose statement. Efforts to engage and share information with shareholders, employers and members had increased.

However, there were still areas of disagreement, which the Trustee said reflected differences in opinion, perspective and duty. The Trustee, for example, has "specific duties under common law, statute and the regulatory regime, including ensuring that the Scheme has enough assets to cover its liabilities (as required under the statutory funding regime) so that members' benefits can be paid when they fall due."[20] It has produced detailed information to explain its approach to stakeholders. See, for example, USS: Prudence in the 2020 valuation.

UUK acknowledges that progress has been made but is concerned that aspects of the scheme hinder rather than assist discussions. For example, employers had been asking to see valuation outcomes in the round since late 2019 but this information had only been forthcoming late in the day (April 2021) making it hard for employers to make informed decisions on important financial issues. Employers were also concerned about the balance of power:

> It would have been impossible in 1975 to envisage the scale of the scheme, the regulatory environment, and the fiduciary duties and responsibilities which the stakeholders now operate. Trust and confidence in the scheme have been strained in recent years. The scheme governance is long overdue a review.[21]

UCU has called for the Trustee to "undertake a full review of its valuation methods and assumptions", stating that the current valuation "has been heavily criticised by both UCU and UUK's actuarial advisers on numerous counts, including its failure to uphold several of the recommendations made by the Joint Expert Panel (JEP)."[22]

[20] USS briefing: The Joint Expert Panel's recommendations, 3 March 2021

[21] The USS 2020 valuation. Finding the right solution, UUK, April 2021, p30

[22] USS FAQs, UCU, Updated 4 August 2021

3 The 2017 valuation

3.1 Background

The 2014 valuation

The March 2014 valuation showed the USS to have a deficit of £5.3 bn, up from £2.9 bn in March 2011. The HE sector collectively – via the JNC - agreed to repair the deficit over 17 years, through a combination of benefit reforms and higher contributions:

- The final salary section of the scheme was closed to future service. From April 2016, benefits build up in the Retirement Income Builder, at a rate of 1/75th of salary in each year of service up to a salary threshold (£59,883.65 in 2021/22). Above this cap, members build up benefits in a defined contribution scheme (Investment Builder), with the option of paying extra contributions to benefit from a matching employer contribution of one per cent.
- **Higher contributions:** The total contribution rate increased to 26 per cent, made up of 18 per cent from employers (including 2.1% to repair the deficit) and eight per cent from employees.[23]

This followed reforms in 2011 which included the introduction of a career average scheme for new entrants and an increase in the normal retirement age for future service and new entrants to 65.[24]

3.2 Consultation

The 2017 valuation process started when the Scheme Trustee launched a 4-week consultation with Universities UK (UUK) on the assumptions that would underpin it. It proposed a "prudent" approach to investment returns, saying this was its legal duty. It also argued that moving to lower risk investments over time would reduce the risk that contribution rates were volatile, which it said was important to employers.[25] On this basis, the Scheme had a deficit of

[23] Methodology and Inputs for the 2017 Valuation: Initial assessment. Technical discussion document for sponsoring employers, USS, 17 February 2017
[24] Scheme funding report of the valuation as at March 2011, USS, 15 June 2012
[25] UUK, Employers propose reforms to ensure USS pension scheme remains sustainable and attractive to members, 17 November 2017, p9

just over £5bn.[26] Taking a less cautious approach would have given a very different result. For example, on a “best estimate” view (a 50% probability that investment forecasts are met or exceeded), the scheme had a surplus of £8.3 billion.[27] Under the Trustee’s proposals, the total contribution rate would need to increase by six to seven percent to meet the cost of the current package of benefits.[28]

UCU response

In September 2017, the University and College Union published a report by First Actuarial which disagreed with the approach proposed by the Trustees. It argued that a direct look at the cash flows in and out of the scheme could be illuminating in working out what needs to be done with the investments:

> The problem with working with actuarial models of capitalised values is that the cash flows are not looked at directly. Running a continuing pension scheme is a matter of cash flow management. If we look directly at the cash flows, we can see what we need to achieve with the investments. By working only with an actuarial model, we are at risk of not distinguishing between a problem in the cash flows and a problem in the model.[29]

First Actuarial argued that the valuation should be driven by the primary concern of employers - that their contribution rate should not increase above 18%. Analysis of the cash flow showed there was “no need to change either the contribution rate or the benefits to have a prudent funding plan. The strong likelihood is that the USS can be invested to outperform the return required to safely deliver the benefits.” Switching to low-risk and low-return investments as proposed by the Trustee risked a vicious circle:

> The risk is that the more the employers say they do not wish to take risk (where the risk they are mainly concerned about is the risk of their immediate contribution rate going up) the more the trustee interprets this as meaning they must set a higher funding target and lower “investment risk”, two actions which are guaranteed to put the employers’ contribution rate up. To control the employers’ cost, the members’ future benefits are then likely to be cut [...] The advantages of having an open scheme with sponsoring employers of excellent aggregate covenant will have been discarded.[30]

[26] Consultation with Universities UK (UUK) commences, USS website, 1 September 2017

[27] USS 2017 Actuarial Valuation. A consultation with Universities UK on the proposed assumptions for the scheme’s technical provisions and Statement of Funding Principles, 1 September 2017, Section 5

[28] Consultation with Universities UK (UUK) commences, USS website, 1 September 2017

[29] First Actuarial, Report for UCU. Progressing the valuation of the USS, 15 September 2017, p2

[30] Ibid, p3

The Trustee said the approach proposed by First Actuarial contained an unacceptable level of risk, which would be "inconsistent with the Trustee's primary duty, in exercising its powers in the valuation context, to protect the security of members' promised benefits given the current assets in the scheme and the likely levels of contributions employers are able to pay in future." It said that positive cash flow could not by itself justify taking more risk.[31]

UUK response

In November 2017, the Trustee said that UUK's response to the consultation suggested it should take a more cautious approach to investment risk. It had therefore agreed to retain the approach taken in the 2014 valuation, which was to de-risk the scheme's investments over 20 years. This increased the deficit (from £5 bn to £7.5bn) and therefore the required contribution rate - to 37.4% of pay, including an increase in deficit recovery contributions from 2.1% to 6%.[32]

In March 2018, UUK said its response had not indicated that less risk should be taken. Based on a survey of employers, it had said the Trustee's proposed assumptions were at the top end of what would be acceptable.[33] In response to the First Actuarial report, it said the Trustee had a legal duty to take a "prudent" approach, taking into consideration possible risk exposure to employers if an adverse scenario:

> These adverse scenarios are not remote possibilities. In fact, the scheme has faced a series of serious, unexpected adverse scenarios in recent years. Interest rates remain persistently low, and for example the UK's withdrawal from the EU has created significant economic uncertainty both generally, and for higher education sector employers specifically. Even if it were lawful, the approach proposed by First Actuarial would place much too great a risk on employers and would not provide sufficient evidence that accrued benefits are secure.[34]

3.3 Joint Negotiating Committee

On 17 November 2017 - three days after the Trustee had said it would adopt a more cautious approach to investment, which would increase the estimated deficit and level of contributions required[35] - UUK proposed closing the defined benefit scheme to the build-up of future benefits, which would be

31 USS Trustee, Response to First Actuarial Report on Technical Provisions consultation

32 USS, UUK response to the USS's consultation on funding proposals, 2017

33 UUK statement on risk, 22 March 2018

34 USS valuation – questions and answers, UUK, Feb 2018, p15

35 USS, UUK response to the USS's consultation on funding proposals, 14 November 2017

provided instead through a defined contribution scheme. Employers would continue to maintain their total contribution at 18% of salaries.[36]

A group of academics wrote to the Times Higher Education Supplement to express their concern about the potential impact on retirement incomes:

> [...] the replacement of guaranteed pensions with a defined contribution scheme that will be wholly dependent on movements in stocks and shares. First Actuarial estimates that a typical lecturer will receive £208,000 less under the proposals than presently. For universities that rely on the USS to help recruit and retain staff this will be a disaster, with lecturers enjoying retirement income of an estimated £400,000 less than their colleagues in the rival Teachers' Pension Scheme, which mainly enrols staff in post-92 universities.[37]

On 18 January 2018, UUK put forward revised proposals. The defined benefit scheme would still close from April 2019, but there was a proposal for discussions on "the long-term future of USS and explore innovative options for risk sharing...alongside considerations of the possible re-introduction of defined benefits (DB) in future." Employers were "willing to extend the duration of their commitment to maintaining employer contributions at 18% of salaries to March 2023 (from the current commitment to March 2020)."[38] It argued that benefit reform was necessary to ensure the scheme was on a sustainable footing:

> Over the past three valuations, employer contributions to USS have risen by almost 30% (from 14% in 1997 to 16% in 2009, and then to 18% in 2016). Employers are not in a position to increase their regular contribution further, and it is clear that many employees would find an increase beyond the current member contribution of 8% of salaries challenging too. The trustee (and indeed pensions law) requires the increased cost in future service benefits to be addressed at this valuation, and the Pensions Regulator and trustee will also need to agree a credible plan to address the increased deficit.[39]

On 23 January 2018, it was announced that the JNC had agreed to this proposal.[40] However, UCU said it had been imposed on scheme members, with the chair siding with the employers' representatives.[41] Turnout on its ballot for strike action had been 58%, with 88% voting for strike action and 93% for action short of a strike. UCU's higher education committee had

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36 UUK, Employers propose reforms to ensure USS pension scheme remains sustainable and attractive to members, 17 November 2017

37 Letter: shrinking pensions could lead to retirement disaster, *Times Higher Education Supplement,* 18 January 2018; UCU website; UCU 1,000 professors on the importance of USS

38 Revised UUK proposal to the JCN for future benefit reform – 23 January 2018; Proposed changes to future USS benefits, USS website January 2018

39 USS valuation – questions and answers, UUK, Feb 2019

40 Proposal agreed to reform USS Pensions, 23 January 2018

41 UCU website, Strikes now likely as talks end without an agreement, 23 January 2018

agreed to escalating strike action in the event of an unsatisfactory outcome to the talks.[42]

Talks at ACAS

On Monday 12 March 2018, talks at the Advisory, Conciliation and Arbitration Service (ACAS) resulted in UUK and UCU agreeing to a revised benefit reform proposal, subject to consultation by both parties and agreement at the USS Joint Negotiating Committee (JNC). The agreement would maintain a 'meaningful level' of defined benefits for members for a three-year transitional period: with a reduction in the salary threshold below which DB is built up from £55,000 to £42,000 and a reduction in the accrual rate from 1/75th to 1/85th. Contribution rates for employers would increase from 18% to 19.3% of salary; those of members from 8% to 8.7%. For the future, there was a commitment to explore alternatives options for the Scheme. The focus of this work would be "to develop alternative ways of risk sharing, in line with CDC [Collective Defined Contribution], seeking to maintain and develop members' confidence in the scheme."[43]

The proposal was rejected by UCU members.[44] UCU explained that that their "overwhelming view…was that while the proposal retained defined benefit it did so at too low a level (only the first £42,000 of salary) and that the proposed reduction in accrual rate was also unacceptable. Branches were also clear that the refusal of the employers to shift their position on taking more risk was disappointing."[45]

UUK expressed its disappointment that the agreement reached at ACAS had been rejected.[46]

Proposal for a Joint Expert Panel

On 23 March 2018, UUK and UCU agreed at ACAS to establish a joint expert panel to review the USS valuation process and assumptions and to agree key principles to underpin the future joint approach to the valuation of the USS fund. Its work would reflect the wish of staff to have a "guaranteed pension comparable with current provision whilst meeting the affordability challenges for all parties within the current regulatory framework." It would "require maintenance of the status quo in respect of both contributions into USS and current pension benefits, until at least April 2019."[47] The then UCU general secretary, Sally Hunt, said substantial concessions had been made:

> UCU has been trying to challenge the valuation methodology employed by USS for years. Now we have an independent review and

[42] UCU website, USS ballot results announced, USS strike action agreed, 22 Jan 2018

[43] Agreement reached between UCU and UUK under the auspices of ACAS, 12 March 2018; For more on CDC, see Library Briefing Paper CBP 8674, July 2020

[44] UCU press release, 13 March 2018

[45] Twitter: UCU strike 13 March 2018

[46] UCU rejects proposals jointly agreed at ACAS, 13 March 2018

[47] UUK, Joint Expert Panel proposed, 23 March 2018

> the status quo in pension arrangements while it makes its deliberations. We also have a commitment from the employers to provide a guaranteed 'defined benefit' pension for the foreseeable future, even if there are future ups and downs in the fund, and a recognition from the employers of the importance of this guarantee in retirement to UCU members. [48]

On 13 April, the UCU announced that its members had voted by 64% to 36% on a turnout of 63.5% to support the establishment of the panel.[49]

UUK said the review would build confidence and increase transparency. It would work with UCU to agree a chair, terms of reference, order of work and timescales.[50]

Contribution rates

On 3 May 2018, the USS Trustee said that despite the establishment of the Joint Expert Panel, it was still under a duty to complete the 2017 valuation. With no agreement to reduce benefits, contribution rates would need to increase.[51] Under the 'cost sharing arrangement' in scheme rules, any increase to the contribution rate required by the Trustee and not subject to a JNC decision, would be split 35:65 between members and employers respectively.[52] In September 2018, shortly before the Joint Expert Panel published its first report, the Trustee launched a consultation on contribution rate increases from April 2019.[53]

3.4 Report of the Joint Expert Panel

The Joint Expert Panel on the USS (JEP) was set up in March 2018. Made up of three members appointed by UCU and three by UUK and an independent chair, it was tasked with examining the valuation of the USS and agreeing key principles to underpin the future approach to it.[54]

Its first report, focusing on the 2017 valuation, was published in September 2018.For this report, the JEP commissioned a joint report from UUK and UCU's

[48] Latest UUK proposal: your questions answered, 26 March 2018
[49] Members vote to accept employers' latest offer, 13 April 2018
[50] UUK, Ballot result on Joint Expert Panel, 13 April 2018
[51] USS announcement 3 May 2018
[52] Ibid
[53] Joint Expert Panel Report, September 2018, p37-40; USS/About US/Valuation and funding/2017 valuation updates
[54] The chair is Joanne Segars OBE. UUK nominees - Ronnie Bowie, Sally Bridgeland, Chris Curry; UCU-nominees – Catherine Donnelly (later replaced by Bryn Davies), Saul Jacka, Deborah Mabbett. For details, see Annex 1, JEP report

actuarial advisers – AON and First Actuarial. In addition, new analysis was requested from the Trustee.[55]

Approach to risk

The JEP said that the Scheme was cashflow positive and likely to remain so, meaning that the Trustee could afford to take a long-term view with regard to its investments:

> The Scheme has a number of unique features. Its relative immaturity means that it is cashflow positive (i.e; its current income exceeds its outgoings) and, all other things being equal, is projected to remain so for the next 50 years. Crucially, the strength and long-term nature of the higher education (HE) sector and its participating employers mean that, unlike the vast majority of occupational Scheme trustees, the USS Trustee can afford to take a very long-term view. This is particularly so given that, over the next 20 years, USS expect the size of the Scheme to fall relative to the size of the sector. This is mainly due to the changes made to Scheme benefits in 2016 which mean that final salary benefits will gradually fall away and be replaced by CARE benefits capped at CPI growth.[56]

In the approach to date, it said too much weight had been placed on Test 1 (whether the scheme was within a manageable distance of self-sufficiency in 20 years' time) the output of which was highly sensitive to the input assumptions, many of which were very subjective. Insufficient consideration had been given to tests 2 and 3 - stability of contributions and benefit design and the ability to underwrite the Scheme in a disaster scenario - both of which were important to stakeholders and the long-term prospects of the Scheme. It said that instead of being used as a "stop and check" reference point, self-sufficiency had become a constraint on benefit design and driver of investment strategy:

> The Panel is of the view that self-sufficiency is a useful concept as an element in a test. It provides a reference point for judging whether a scheme is over-reliant on the sponsor covenant. However, the way in which the employers' risk appetite has been applied through Test 1 has contributed to the adoption of strong risk aversion. The Panel's view is that adopting a time horizon of 20 years (used for assessing the gap between technical provisions and self-sufficiency) and the hypothetical move to a low-volatility, low-return portfolio is only one of many paths available for a scheme with the strong, long-term, prospects and unique characteristics of USS.

[55] Joint Expert Panel Report, September 2018

[56] Joint Expert Panel Report, September 2018, p7

> Overall, this approach dampens perceptions of the outlook for the Scheme which, in the Panel's view, is strong.[57]

It was the overall strength of the sector, as opposed to that of individual institutions, which mattered most. The way the scheme was organised insulated it in a way that was not possible in a single employer or other multi-employer scheme.[58]

Valuation methodology

The JEP said that it was appropriate for the USS, given its size, to develop its own model for establishing economic and investment outcomes. The Panel had developed five principles against which adjustments to the valuation assumptions and methodologies could be considered:

1. A re-evaluation of the employers' willingness and ability to bear risk – this would mean re-assessing the reliance on sponsor covenant.
2. Adopting a greater consistency of approach between the 2014 and 2017 valuations – this would mean changing the approach to deficit recovery contributions.
3. Achieving greater fairness and equality between generations of Scheme members – this would mean smoothing future service contributions.
4. Ensuring the valuation uses the most recently available information – this would mean using latest available data and taking account of recent investment considerations and outcomes.
5. Taking the uniqueness of the Scheme and the HE sector more fully into account.

It believed that adjustments in each of these areas would have a "material impact on the scale of the 2017 deficit and resulting contribution increases."[59] It had concluded that a number of ways could be found to keep the contribution rate below 30%. If its proposals were taken into account, a contribution rate of 29.2% might be achieved. However, it acknowledged that this "did not allow for an assessment of the additional risks to which the Scheme would be exposed."[60]

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[57] Ibid, Executive Summary
[58] Ibid, p20
[59] Ibid, Executive Summary
[60] Joint Expert Panel Report, December 2019, p104

Governance arrangements

The JEP said interaction with and gaining support of both employers and members needed to be managed more effectively. One concern was that the approach of the Pensions Regulator, which seemed not to have fully taken account of the specificities of the USS, may have steered employer decisions:

- It is reasonable in a scheme as large as USS that the Pensions Regulator (TPR) should be kept informed during the valuation process. This is consistent with TPR's risk-based approach to regulation. However, some of those giving evidence to the Panel have suggested that the Regulator's views have steered employers' decisions.

- TPR appears to have taken an approach to the valuation, especially in relation to the employer covenant, that does not fully take account of the specificities of USS. In particular: the very long-term nature of the Scheme; its relative immaturity and cashflow-positive status; and the fact that it is a 'last man standing' scheme.[61]

The JEP considered that the questions employers had been asked to assess their risk appetite had "produced misleading results," with significant implications for decisions on contribution rates, future Scheme benefits, the investment strategy and the estimated deficit. There was no formal mechanism for involving scheme members in the valuation process or assessing their attitude to risk. The JEP said that a second phase of its work would include a wider review of the approach to valuations and the involvement of UUK and UCU, so that "a more collaborative approach can be adopted and industrial action, such as that witnessed earlier this year, can be avoided."[62]

3.5 Response to the JEP report

The First JEP report was welcomed by the UCU as a "significant landmark" in its ongoing campaign to defend members' pensions. The then General Secretary, Sally Hunt, said:

> There is no doubt that we have come a long way from this time last year when we faced plans to impose a defined contribution benefit package that would have seen some members lose around £200,000 in retirement.[63]

[61] Ibid
[62] Ibid
[63] UCU response to USS Joint Expert Panel report, 13 September 2018

UUK consulted employers on the Panel's proposals and received widespread support for them, subject to USS providing more information on the additional financial risks involved and if and how they could be managed and mitigated. The Trustee said the Panel's proposals "would require employers to take on greater risk, and both members and employers paying higher contributions, than we were advised they were originally willing to support."[64]

2018 valuation

Following the publication of the first JEP report, the Trustee agreed to carry out another valuation, showing the position of the Scheme on 31 March 2018. This would allow time to assess the recommendations and incorporate them where appropriate.[65]

The JEP's second report explained that two of the recommendations of its first report had been incorporated in the 2018 valuation (namely the expected future investment returns and the changes to mortality experience data during the year). Four had been rejected on the grounds that they were perceived to introduce additional risk. These were:

- increasing the target reliance at 20 years from £10 bn to £13 bn;
- deferring de-risking of the investment portfolio for 10 years;
- smoothing contribution rate increases over two valuation cycles; and
- allowing for outperformance relative to the technical provisions discount rate in the calculation of deficit recovery contributions (in spite of the fact that the conclusion of the 2017 valuation included a 10% allowance for out-performance of assets between best estimate and the prudent discount rate).[66]

This was because the Trustee considered that collectively the additional risk of these recommendations would be 'significant' and beyond what it and the Pensions Regulator would consider acceptable.[67]

Work on the 2018 valuation included an invitation to employers to consider contingent contributions (i.e: additional monthly contributions required in the event of scheme funding deteriorating below a certain threshold).[68] In May 2019, the Trustee rejected the employers' proposals for contingent

[64] Joint Expert Panel Report, December 2019
[65] USS Report and Accounts for the year ended March 2019, p84
[66] Joint Expert Panel Report, December 2019, p105
[67] Ibid
[68] USS employers/glossary of key terms

contributions and proposed instead three options for concluding the valuation. Following consultation, UUK agreed Option 3 as the best available:

- Contributions would be fixed at 30.7% until October 2021, reviewed in 2020/21. This option would be applied as an alternative to contingent contributions, but subject to a valuation in 2020, a year earlier than otherwise scheduled.
- Employers would initially pay 21.1% in contributions and Scheme members 9.6%. If the contributions arising from the 2020 valuation could not be agreed and implemented before 1 October 2021, contributions would then rise to 34.7% at that time (reflecting the level of contributions the Trustee believed would have made if sufficiently strong contingent contributions had been available and were triggered by adverse experience).

Following the decision in June 2019 of Trinity College, Cambridge to withdraw from the Scheme, having met its debt to the Scheme under section 75 of the Pensions Act 1995 with a contribution of £30 million, the Trustee added two conditions to moving forward with Option 3: a moratorium on employers exiting the Scheme for the duration of the fixed contributions; and the ability for USS to undertake additional scrutiny over sponsoring employers' borrowing and debt arrangements.[69]

In May 2019, TPR said Option 3 was at the top of its limit on risk tolerance.[70]

In September 2019, the Trustee said that contribution rates under the 2018 valuation had been confirmed. As set out in Option 3, the overall contribution rate was set at 30.7% of pay until October 2021 and 34.7% thereafter, subject to a 2020 valuation. The JNC had decided that members would 9.6% of pay and employers 21.1% until October 2021, followed by 11% and 23.7% respectively thereafter, subject to a 2020 valuation.[71]

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69 Ibid

70 Ibid

71 USS/About us/funding and valuation/2018 valuation update, 13 September 2019

4 2020 valuation

A valuation of the scheme at end March 2020 was due for completion by June 2021.[72] However, in March 2021 the Trustee said the process would not conclude until late 2021 or early 2022.[73] A timeline for the 2020 valuation is on the USS website.

4.1 Initial report – March 2021

An update from the Trustee in March 2021 said that the deficit had increased. Even in the most favourable scenario considered, there would need to be "further financial commitments from employers to strengthen the scheme's covenant" and the overall contribution rate would need to rise. It said employers could secure a Recovery Plan (to fund the deficit in the Scheme) of up to 15 years with appropriate covenant support measures – in particular through agreeing a moratorium on employer exits from the scheme for at least that period. Given the Pensions Regulator's repeatedly stated view, it did not believe it would be credible for it to argue for a longer Recovery Plan without at least a matching commitment from employers to remain in the Scheme. It set out different scenarios for the estimated deficit and required contribution rates, depending on the level of covenant support:

> **Scenario 1** – based on current levels of employer support, the estimated deficit in the scheme was £17.9 bn, requiring a total contribution rate of 56.2% .
>
> **Scenario 2** – based the level of covenant support UUK had suggested employers might be willing to support, the estimated deficit in the scheme was £16.1 bn, requiring a total contribution rate of 49.6% (including 14.9% deficit contributions).
>
> **Scenario 3 –** based upon a further strengthened package of covenant support measures identified by the trustee, the estimated deficit in the scheme was £14.9 billion, requiring an overall contribution rate of 42.1% (including 8.5% deficit contributions).[74]

72 USS website - 2020 valuation overview

73 USS: pension contributions will need to rise sharply if existing benefits are to be maintained, 3 March 2021

74 USS, Update on the 2020 valuation, March 2021, Table 2; The USS 2020 valuation. Finding the right solution, UUK, April 2021, Executive Summary

A further concern was that one in six people eligible to be members of the scheme were opting out. Between a quarter and a third of members said this was primarily due to affordability reasons.[75]

4.2 UUK consultation with employers

In April 2021, UUK launched a consultation with employers on a package of proposals – including benefit reductions and increases in employer support - designed keep total contribution rates at 30.7%. This emphasised the importance of employer covenant support to enabling the scheme to provide pension benefits for members in challenging economic times, but in a sustainable and inclusive way.[76]

Employer covenant

The term "covenant" refers to the extent to which the funding of the Scheme relies on the legal obligation and financial capability of the employers in the event of it being in deficit (JEP report, December 2019, Glossary, p95).

Trustees need assurance that, if the deficit in a scheme increases, they will be able to repair it. If trustees are concerned that employers might be unwilling or unable to increase their contributions in future, they may decide they need to take a more cautious approach to investment. Other things being equal, this has the effect of reducing the expected investment income and therefore increasing the level of contribution rates required.

To reduce the pressure to increase regular contributions, employers can offer other forms of assurance for the scheme. One option is to provide 'contingent' assets, which the Trustee would be able to draw on in certain circumstances.

As discussed below, in the case of the USS, employers have agreed to place a moratorium on their exits from the scheme, allowing the Trustee to monitor their debt levels and measures to protect the scheme's interests as a creditor.

"A strong, secure long-term covenant can benefit all employers by potentially reducing scheme costs and therefore allowing employers to retain funds to run and invest in their business." (USS: monitoring debt levels in the sector for USS employers: an introduction, July 2020).

[75] The Joint Expert Panel's recommendations, USS Trustee 2020 Valuation Update, March 2021

[76] The USS 2020 valuation. Finding the right solution, UUK, April 2021, Section 3

UUK said that the pathway to achieve this objective started with covenant support measures. It said the Trustee had "attached considerable weight to the one event of Trinity College, Cambridge choosing to exit from USS", resulting in in it creating a "huge cost differential between different covenant support packages (over 14% of salary between the existing level of covenant support and the scenario with the USS Trustee's preferred measures)." UUK considered that this significantly undervalued the core covenant of employers.[77]

UUK was concerned at the prospect of contribution increases agreed at the 2018 valuation being implemented in October 2021, as they would be by legal default unless other actions were taken (see section 4.5 below). It was concerned that the Trustee was prepared to impose significant contribution increases if additional covenant support was not forthcoming:

> The pathway starts with covenant support measures. Whether we agree with the rationale or not, it is clear from the scenarios set out that the USS Trustee is prepared to insist that the scheme deficit is paid off quickly – something which is materially (and disproportionately) detrimental to the immediate generation – if employers do not provide the covenant support measures the USS Trustee has requested. The USS Trustee also seems prepared to impose impossible contribution requirements regardless of their impact on members and employers if the covenant support measures are not forthcoming.[78]

Its proposed package of covenant measures included a moratorium on leaving the scheme of a minimum of 20-years, together with arrangements for debt-monitoring and to improve the Scheme's security as a creditor.[79]

However, it argued that it was "clear that some element of benefit reform was still needed" if current contribution rates were to be maintained.[80] It proposed reductions in defined benefit pension rights for future service:

- A reduction in the rate at which benefits build up each year from 1/75th to 1/85th of salary each year; and
- A reduction in the salary threshold below which individuals build up defined benefit pension rights from £59,883.65 in 2021/22 to £40,000.
- Annual inflationary increases in pensions in payment would be capped at 2.5% per annum.[81]

It asked for views on possible measures to address the fact that an "alarmingly high number" of employees were opting out of the scheme –

[77] The USS 2020 valuation. Finding the right solution, UUK, April 2021, Section 2
[78] Ibid, p22
[79] Ibid, p23
[80] Ibid, p24
[81] Ibid, p25-6

between 15% and 20% compared to around 5% in many other schemes. Around three out of every four people opting out of the scheme were aged under 40, and often cited the reason that they “can’t afford it right now.”[82]

Response

On 15 June 2021, UUK said employers had supported a proposed package of reforms, including increased employer support for the scheme, reductions in benefits and a major review of governance:

- Employers to offer further, stronger covenant support measures including a moratorium on exit, debt-monitoring and ensuring that pension promises are even more secure through protecting the USS Trustee’s status as a creditor.
- No increases in member contributions or employer contributions.
- Maintaining the scheme’s Defined Benefit/ Defined Contributions hybrid with changes at this valuation to keep contributions at the current level with a proposed salary threshold of £40,000.
- A major new review of the scheme’s governance.
- Work to begin immediately on developing proposals to explore a move to a conditional indexation model - which pegs a part of annual pension provision to the performance of scheme funds - through the suggested establishment of a joint member/ University and College Union (UCU), employers, and USS working group to collaboratively design a proposal.
- Addressing the high opt-out rate, which sees around 20% of members choosing not to join the scheme and losing out on the 21.1% employer contribution, by giving eligible members the choice of a new lower contribution option.
- A commitment that should the scheme’s financial situation get better, then improvements to benefits can be considered rather than reducing contribution rates.[83]

On 18 June, the Trustee said it had confirmed to UUK that “31.2% of pay would be needed to fund the package of benefit changes they had put forward for consideration.” In arriving at this rate, it had considered the latest advice from the Scheme Actuary and had proposed adjustments to elements of UUK’s package relating to commitments from employers. If UUK confirmed its

[82] Ibid, Annex E
[83] USS Employers back changes to the pension scheme, 15 June 2021

proposals, the Joint Negotiating Committee (JNC) would then need to agree to that package and decide how the required contribution rate would be shared between employers and members. Of the current rate (30.7%), members pay 9.6% and employers pay 21.1%. The Pensions Regulator had shared its views on our position in a letter you can read here.[84]

In July 2021, UUK said it had agreed to make an even stronger promise to the scheme to keep contributions at an affordable level:

> The additional financial backing – or covenant support – would save members and employers from contributions rises up to 80% higher after the USS Trustee confirmed the additional support would allow it to price Universities UK's proposed alternative package at contributions very close to current levels.[85]

4.3 UCU response

While welcoming UUK's agreement to more support for the USS, the UCU said this did "nothing to address the hole in UUK's proposals which will see scheme members suffer cuts to their pension benefits." It argued that UUK should work with it to push the Trustee to carry out a new 2021 valuation, taking a different approach:

> UUK still needs to work with us to push USS to carry out a new moderately prudent 2021 valuation and abandon its flawed 2020 valuation, which has consistently led to unjustified and unnecessary demands to either slash benefits, increase contributions, or both. UCU's and UUK's advisors have criticised USS's methods and assumptions and the choosing of 31 March 2020 as the date to value the scheme, when markets were crashing due to the pandemic. The joint expert panel of pensions specialists that UCU and UUK set up has shown that defined benefits are affordable.
>
> The sector is in a very strong position with finances in robust health and there is no excuse to cut member pension benefits as UUK propose. UUK can either work with us to push USS to scrap the flawed 2020 valuation in favour of a 2021 valuation, and commit more to maintain current benefit and contribution rates, or it can choose to face a ballot for industrial action.[86]

In terms of benefit reform, UCU is arguing for "progressive contribution structures" to enable more low-paid staff to remain in the scheme. It was willing to explore a "conditional benefits" model which would link indexation

84 Making progress with UUK's proposals, 18 June 2021

85 Employers pledge even greater support to USS to keep contributions at current levels, UUK, 21 July 2021

86 UCU responds to UUK announcement on employer support, July 2021

of benefits to the scheme's performance, but only on terms acceptable to its members.[87]

UCU is developing its own counter proposals and is currently discussing these with branches, after which they will be submitted to the Joint Negotiating Committee (JNC). It says that if the benefit changes proposed by UUK are passed by the Joint Negotiating Committee, UCU members "will almost certainly need to take industrial action to take them off the table."[88]

87 UCU, USS FAQs (viewed August 2021)
88 Ibid

5 Questions in Parliament

An early day motion tabled on 29 November 2017, with 137 signatures, called on the Government to "review the current situation and urge Universities UK to work with University and College Union to find a better solution which ensures that USS remains competitive compared with pensions offered to other education staff and those in other professional occupations."[89]

However, on 22 December 2017, the then Universities Minister, Jo Johnson, said the Government had no role in relation to the scheme:

> Universities are autonomous institutions and they are responsible for their own pension provision. Government has no role in relation to the Universities Superannuation Scheme (USS) beyond regulation as is applied to all workplace pension schemes by The Pensions Regulator. Neither my Rt hon. Friend the Secretary of State nor the Minister of State for Universities, Science, Research and Innovation has discussed the USS with Universities UK (UUK) or the University and College Union. Officials have sought updates from UUK on the latest developments regarding the USS. These were informal discussions and there were no outcomes.[90]

The then Work and Pensions Secretary, David Gauke, said:

> Any changes that might be made to this scheme are a matter for the scheme's joint negotiation committee, not for the Government. The independent Pensions Regulator remains in ongoing discussion with the USS's stakeholders. Nothing has been brought to the DWP's attention that we consider to be of concern. It would be improper for the Government to tell the joint negotiation committee how to run the scheme.[91]

The then chair of the Work and Pensions Select Committee, Frank Field, wrote to the chair of the Pensions Regulator, Charles Counsell, asking about the apparent delay in responding to the concerns of a whistle-blower and how it proposed to respond to the JEP's concerns that it may have steered employers. In his response, Mr Counsell said he believed TPR's level of engagement was "commensurate with USS being the largest private pension scheme in the UK, with a very large membership and significant liabilities and is entirely appropriate in light of our statutory objectives."[92]

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[89] EDM 619 2017-19

[90] PQ 119989, 22 December 2017

[91] HC Deb 18 December 2017 c740

[92] TPR Letter to Rt Hon Frank Field, 9 July 2019

In July 2021, Shadow Leader of the House, Thangham Debbonnaire, asked whether the Government planned to establish an inquiry into the governance of and role of the Pensions Regulator in relation to the USS. Pensions Minister, Guy Opperman, said it did not: "The Pensions Regulator was created in 2004 by the then Labour Government to be independent."[93]

[93] PQ 7845, 7 June 2021

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