Pensions Update 15 August

UCU have published an “open letter” to all scheme members. This is attached, together with a response by Universities UK to the various points made.

An open letter to all scheme members, whether or not they are members of UCU, from UCU's National Dispute Committee.

You will have no doubt read with interest the various communications from our employer and their representatives, Universities UK, about the renewed dispute over USS. Here we want to unpack some of that, challenge some of the analysis, and outline what we as a branch would like to see the university do in order to ensure that the USS scheme is managed in a way acceptable to its members, preserving defined benefits.

The valuation

Central to the dispute over USS is the valuation of the scheme's assets and liabilities. On a rolling programme, USS establishes whether the scheme is in surplus or deficit and adjusts contributions to reflect that. However, there is no fixed valuation methodology and, within reason, the scheme's trustees can adopt many different ways of assessing the scheme's assets and liabilities and, therefore, contribution rates.

When strike action was called off in 2018, a Joint Expert Panel (JEP), comprising representatives of UCU and the employers and with an independent chair, was established to look at how the scheme operated. In its first report, it made seven recommendations for modifying the assumptions of the 2017 valuation, and both the employers and the union accepted these recommendations and asked the USS trustees to implement all of them.

The JEP estimated that if all its recommendations were applied to the 2017 valuation contributions would need to rise from 26% to 29.2%. However, USS have since announced a 2018 valuation to supersede the 2017 valuation. They have calculated that if all the JEP recommendations were applied to the 2018 valuation then contributions could return to 26% of salary, split between employers (18%) and employees (8%). USS's trustees have refused to implement several of the most significant JEP recommendations.

USS has not been able to effectively articulate why the full set of recommendations proposed by the JEP cannot be implemented as agreed by both sides in the dispute. Employers are trying to blame the lack of full implementation of the JEP proposals on vague allusions to the requirements of the Pensions Regulator. But the truth is that USS did not even try to persuade the Regulator to accept them - despite the regulator saying that it was open to being persuaded - and UUK have not pushed USS to do so.

We call upon the university to publicly demand the implementation of the JEP recommendations in full. We call upon the university to publicly support a 26% contribution rate based on implementation of the JEP recommendations in full.

Contribution rates

Because USS has refused to accept all the JEP recommendations it is able to claim that the scheme is now in deficit and requires additional contributions. Your contributions, and those of the employers, increased in April 2019. Under its 'option 3', which the employers have not seriously challenged, USS has proposed that they increase again in October and, most likely, again in two years' time at which stage total contribution rates will go above 34% of salary. And all this is based on the 2017 valuation methodology that was heavily criticised in the JEP report.

Our employers are arguing that the threat of an increase to 34% of salary is a chimera because, so the line goes, the second JEP report, which is due to be published later this year, will contain recommendations that will alter the scheme's valuation methodology and governance and thus avert the proposed future increases.

At this stage we have no faith that the USS trustees will implement this second JEP report given its refusal to implement fully the first.

We are not prepared to commit on trust to further increases in contributions, nor are we prepared to agree to cost increases on the basis of a deeply flawed valuation that presents a healthy Scheme as being in deficit. If our employers are, then we call for them to shoulder 100% of the unwarranted increases in contributions.

Employee/employer contribution rate split

The 'no detriment' motion which the UCU Congress passed earlier this year called upon employers to shoulder the proposed increases in contributions to the scheme occasioned by the refusal to implement the JEP. Our members lost a considerable amount of money prosecuting a fourteen-day strike against proposed changes to our pensions, changes which our employers ultimately conceded were, far from being essential, unnecessary. We have already shouldered increases to our contributions to the scheme, despite the JEP's recommendations being accepted by the union and employers. We see no reason for members to suffer further increases when a way forward has already been found. UUK has claimed that sharing contribution increases between employers and members is necessary due to the scheme rules, but this is false. The no detriment proposal is entirely consistent with scheme rules; there is no obligation to split contribution increases 65%/35% between employers and members. That applies only when the JNC cannot agree on how to divide contributions. We have proposed a very reasonable and just solution. If the JNC fails to agree, it will be due entirely to employer intransigence.

We call upon the university to acknowledge that the 65/35% cost sharing does not have to be applied.

Jobs or pensions?

Unsurprisingly, the employers have begun following the lead of the more hawkish of their members and threatening our jobs, essentially saying that we must choose between our jobs or our pensions. As Adam Tickell, vice-chancellor of the University of Sussex and a Universities UK spokesman and the chair of the Employers Pensions Forum, said in mid-July in the Financial Times, 'if employers have to make higher contributions then that will be felt very, very quickly in job losses'. We are appalled, but sadly not at all surprised, at the cavalier attitude Universities UK is taking towards the lives and livelihoods of their employees. It is all the more offensive when it comes at the end of a decade of universities expanding with fancy new buildings and far-flung campuses while wages have been in steady decline in real terms. The higher education sector desperately needs leaders who can lead without resorting to the expedient of threatening their staff.

We call on the university to publicly rebuke Adam Tickell and Universities UK for this threat and to commit to a policy of no job cuts in response to the outcome of the USS dispute.

Upcoming industrial action

UCU will be balloting its members for industrial action starting on 9 September. We fully expect nearly all branches to pass the 50% turnout threshold and to return an overwhelming mandate for industrial action. The last time we were forced to do this in Spring 2018, we were told that we were wrong, that we just did not understand pensions, that there was no alternative. We chose to strike anyway, knowing we were right and knowing this was the only way to force our employers to do the right thing. The work of the JEP has completely vindicated the position of the UCU while castigating UUK, USS, and the Pensions Regulator. Yet our members still lost up to 5% of their annual salary in strike deductions in order to prove to our employers what they should have already known had they been taking their responsibilities seriously. We encourage all branches to file collective grievances for the return of strike deductions from the Spring 2018 industrial action. We also believe that if our employers again force us into industrial action, this time with the full knowledge that there is a better alternative, there can be absolutely no justification for strike deductions.

We call on the university to affirm that any settlement of the dispute will include full repayment of strike deductions with interest.

Let's talk about this

Another round of industrial action over USS will be damaging to the higher education sector and this institution, but it can be avoided through open and honest discussions about our options. It will not be avoided if employers simply do as they are told by USS and Universities UK.

We call on the management of our university to engage in open discussions with our local UCU branch around finding ways to settle this dispute that avoid reducing the quality of our pensions or increasing our contributions and avoids a dispute that will damage our institution. We believe these discussions should be reported to all university employees as thoroughly and quickly as possible as they proceed.

USSEmployers
www.ussemployers.org.uk

UCU NDC LETTER DATED 2 AUGUST 2019

KEY POINTS IN RESPONSE FOR USS EMPLOYERS

The valuation

'We call upon the university to publicly demand the implementation of the JEP recommendations in full.

'We call upon the university to publicly support a 26% contribution rate based on implementation of the JEP recommendations in full.'

The JEP has not – at any point – made any statements to even suggest that the 2018 valuation could be concluded with a contribution rate of 26% or less. To imply otherwise is misleading.

The JEP's first report maintained 'there are a number of different paths the USS Trustee could adopt to reduce the contribution rate to below 30%', and that their proposed solution illustrated one such path. The proposed outcome for the 2018 valuation should be considered as an alternative path, that has nonetheless brought the required contribution rate down substantially.

Employers have not made any 'vague allusions' to the 'requirements of The Pensions Regulator.' The Regulator itself set out its position in a letter of 15 May, in which it raised concerns over concluding the 2018 valuation with a contribution rate of 30.7%. UCU's Joint Negotiating Committee (JNC) representatives received this correspondence (which was subsequently published online), and also heard this position first-hand in an informal meeting with the Regulator itself. It is therefore unhelpful for UCU to suggest that employers have inaccurately communicated the position of the Regulator to justify a higher contribution rate. The fact is that the Regulator would prefer a higher level of contributions than 30.7% to fund current benefits and deficit recovery contributions.

If it were possible to conclude the valuation with a rate of 30% or lower, which would also satisfy the concerns of the Pensions Regulator and the USS Trustee, employers would of course want to achieve such an outcome: it is simply not in the interests of employers or members to pay higher contributions than are necessary. On this occasion, however, there are certain realities that render such a rate impossible while maintaining the current level of benefits. Alongside challenging economic conditions and the regulatory environment outlined above, the legal obligation and ultimate decision-making on contribution rates rests with the USS Trustee. Nonetheless, by carrying out a 2018 valuation to take the JEP's recommendations into consideration, the Trustee has been persuaded to put forward a much lower contribution rate.

Finally, the suggestion that Universities UK (and employers individually) have not pushed USS to implement all the JEP recommendations is wholly inaccurate. It is unthinkable that employers would agree to pay an additional £250 million each year into the scheme (and bear the consequences of doing so) without first exhausting every possible avenue to a lower rate. The fact that at very short notice employers agreed to challenging extra covenant supporting measures to bring the rate down from 33.7% to 30.7%, is further evidence of the lengths to which employers have gone to secure a lower contribution rate.

Contribution rates

'We are not prepared to commit on trust to further increases in contributions, nor are we prepared to agree to cost increases on the basis of a deeply flawed valuation that presents a healthy scheme as being in deficit. If our employers are, then we call for them to shoulder 100% of the unwarranted increases in contributions.'

The option proposed by employers ensures that pensions benefits for USS members remain at current levels with the additional costs shared 65% by employers and 35% by scheme members.

The Joint Expert Panel (JEP) was established jointly by UUK and UCU, and since its inception employers have been committed to a thorough examination of the valuation methodology. The JEP is close to completing its second report (due in autumn 2019), which will make recommendations in this area for the next valuation. Until the report is published, employers believe that Option 3 is the most preferable holding position for the scheme, as it involves the lowest contributions available for scheme members and employers, which maintains the current level of benefits.

We anticipate that all stakeholders will come together to consider the JEP's second report and agree a way forward for a valuable and sustainable scheme, with a valuation methodology that is accepted by all. It is disappointing that UCU does not believe that stakeholders will be able to exert influence over its implementation: the first report ultimately lowered contributions from 36.6% to potentially 30.7%, while retaining the current level of benefits.

UCU's statement that the contributions increases are 'unwarranted' should be viewed as an opinion, not a fact. The employers' opinion is that while the contributions increases are in themselves undesirable, they are reflective of the challenges currently faced by all schemes and are not out of the ordinary given the present regulatory environment. These additional contributions will allow the maintenance of benefits at current levels.

Employee/employer contribution rate split

'We call upon the university to acknowledge that the 65:35% cost sharing does not have to be applied.'

It is correct that it is ultimately for the JNC to decide how to split contributions; and, that they may take up to three months to continue deliberating. If at the end of those three months there is still no agreement, the default position is that 65:35 cost sharing will be applied as set out in the scheme rules. However, by that point the 1 October 2019 increases (from the 2017 valuation) will have come into effect – with a rate of 10.4% for scheme members, compared to the 9.6% rate employers have proposed.

UUK's proposal to split the increases 65:35 therefore takes into account the nuances of the situation: UCU has firmly committed to a 'no detriment' policy, and although employers have made clear that the contributions required under that scenario would be damaging, there is little sign that UCU is prepared to negotiate further. The pragmatic solution therefore is to fast-forward the process and conclude the 2018 valuation with a 65:35 split now, so that it can be implemented before the 1 October 2019 planned increases come into effect.

Employers have committed to covenant supporting requirements to allow the Option 3 proposal to be presented as a solution to the 2018 valuation. These commitments reduced the contribution rate by a further 3% (33.7% to 30.7%) and employers are proposing this reduction is shared with members.

Jobs or pensions?

'We call on the university to publicly rebuke Adam Tickell and Universities UK for this threat and to commit to a policy of no job cuts in response to the outcome of the USS dispute.'

There are over 340 participating employers in USS, and each will respond differently to increases in contribution requirements with many having had to do so for previous increases. It is also the case that some employers have more capacity to absorb these increases than others. However, it is clear that there would be implications at almost all institutions of such increases – whether those implications are in the form of changes to spending plans, delays in business projects, reductions in investments, changes in course provision and ultimately the risk of job losses – all of which would be damaging to the student experience.

Employers have responded to recent consultations by UUK to indicate their support for an outcome to the 2018 valuation in line with Option 3. This would involve employer contributions of 21.1% of salary – and higher contributions thereafter – but with an actuarial valuation as at 31 March 2020.

In terms of the financial implications for employers, the increase in contributions from 18% of salary (the rate payable up to 31 March 2019) to 21.1% of salary would represent an additional £250 million paid into USS by employers, every year. To put this into context:

- This extra contribution which employers have put forward to achieve a settlement to the 2018 valuation is equivalent to c. 5,500 full-time roles for a full-time USS member paid the scheme-average salary (of £42,659 as at 31 March 2017);

- This extra contribution is equivalent to the income which institutions collectively would receive for approximately 27,000 students each year (based on a tuition fee of £9,250 per year in England).

If the valuation was to be concluded under Option 3 but with UCU's 'no detriment' proposal applied, these figures would rise to:

- An additional £370 million each year; equivalent to c. 8,477 roles; and equivalent to the income that institutions collectively would receive for approximately 40,000 students.

Upcoming industrial action

'We call on the university to affirm that any settlement of the dispute will include full repayment of strike deductions with interest.'

Employees who take part in industrial action are in breach of contract, and employers are legally entitled to withhold pay as a result.

Regardless of whether the outcome of the industrial action is considered a success or not, employees are not entitled to any pay that is withheld for each day that they took part in strike action.

Let's talk about this

'We call on the management of our university to engage in open discussions with our local UCU branch around finding ways to settle this dispute that avoid reducing the quality of our pensions or increasing our contributions and avoids a dispute that will damage our institution. We believe these discussions should be reported to all university employees as thoroughly and quickly as possible as they proceed.'

UUK hopes that all USS scheme members – whether they belong to UCU or not – will recognise that the proposed outcome represents a fair and pragmatic conclusion to the 2018 valuation: it maintains current benefits and proposes to share the increase in costs in line with a solution that already exists in the scheme to solve any impasse that arises between the scheme's stakeholders.

Importantly, this outcome would supersede the more costly contributions increases currently scheduled for October 2019, and creates space for the JEP's second set of recommendations to be taken into account before the next valuation of the scheme in 2020.

The option proposed by employers ensures that pensions benefits remain at current levels with the additional costs shared 65% for employers and 35% for scheme members.