

Private and Confidential

Mr B Galvin
Group CEO
USS Limited
Royal Liver Building
Liverpool
L3 1PY

19 June 2019

Dear Bill

Rule changes required for the 2018 valuation

Thank you for making your team available for discussions on the rule changes and requirements associated with the potential completion of the 2018 valuation under Option 3. Representatives from the Employers Pensions Forum also appreciated the opportunity to hear the presentation from Jeff Rowney and colleagues from PwC, on the covenant review and the recommendations made to the trustee.

After discussing, with your team, our concerns over securing collective support from employers in such a short timescale, and also exploring potential avenues for achieving the covenant reassurance sought by the trustee, UUK would like to take up the opportunity to put forward a potential alternative proposal. We hope this is a way forward that could be accepted by all parties and enable the conclusion of the 2018 valuation.

The consistent feedback from employers demonstrates a clear concern and many questions on the details of the requirements associated with Option 3. The EPF session with PwC showed that detailed explanation is vital, to enable employers to fully consider this issue and understand the covenant support recommendations. We believe that, from this meeting, the USS Executive and PwC will be able to see the value in providing detailed papers and presentations (including webinars) to employers, and we would like to facilitate this as soon as possible. Crucially, we need to allow key staff at institutions, including senior management teams and governing bodies, the opportunity to fully consider the proposed changes. We are concerned that UUK would not receive sufficient consensus from employers on any long-term changes within the current timescales.

One possible way forward is a moratorium on employers exiting USS without the trustee's consent. The moratorium would apply for a period of months, during which time the formal, longer-term rule amendments might be communicated to employers, explained, and defined in further detail. In the annex to this letter we set out further information on our proposal, and we would like to take up the offer for this to be tabled at the board meeting on 20 June 2019 for the trustee's consideration.

The voice of universities

Chief Executive
Alistair Jarvis

Universities UK
Woburn House
20 Tavistock Square
London
WC1H 9HQ

telephone
+44 (0)20 7419 4111

twitter
@universitiesuk

email
info@universitiesuk.ac.uk

website
www.universitiesuk.ac.uk

Company limited by
guarantee and registered
In England and Wales
Number 2517018

Registered charity number
1001127

I must state that we do not have a mandate from employers for this proposal, and we would need to consult with employers after this has been considered by the board, but I hope it is helpful to have at least this outline available to you. If acceptable to the trustee board, we would then consult formally with employers.

Yours sincerely

A handwritten signature in black ink, appearing to be 'A. Jarvis', with a long horizontal flourish extending to the right.

Alistair Jarvis
Chief Executive

Enc: Annex

Maintaining support for the covenant – a proposal

- (1) The trustee has indicated, in the letter from Bill Galvin to Alistair Jarvis dated 7 May 2019, that it would wish to introduce a clarification to the USS rules which would “strengthen the trustee’s discretionary powers to determine whether an employer can exit the scheme”. The objective would be to “support maintaining the current covenant rating”.
- (2) UUK wishes to engage constructively with the trustee on this issue, and has a mutual interest in finding a solution which can provide comfort to the trustee (and to its covenant advisers) regarding the support for the covenant, in order to enable an outcome to the 2018 valuation in line with option 3. Employers have stated their indicative support for this option.
- (3) We do however wish to ensure that the rationale for such changes to the rules – which in UUK’s view (and that of its advisers) could not be considered to be clarifications – is clear to employers, that the precise formulation of the rule changes is known and understood, that they have time to examine the details of any proposals and if appropriate take their own advice, and crucially secure the view of their senior / governing bodies to what would be material changes to the provisions of their workplace pension scheme.
- (4) It seems reasonable for employers to expect the fullest information, and the necessary time, to consider and – we hope and anticipate – signal their support to such important changes to the scheme. It is UUK’s view that if employers are not given an appropriate period to decide on these issues, and/or the process is rushed, there will not be sufficient consensus on the changes and it will not be possible for UUK to back any lasting rule amendments at the Joint Negotiating Committee.
- (5) UUK understands that the trustee seeks reassurance, now, on the support of employers which underpins the covenant. We understand that the prospect of one strong employer exiting from USS has raised concern that, should another strong employer do likewise, the trustee would, based on its covenant advice, downgrade the covenant from strong to tending to strong. We do not have any sense that such a pattern might emerge, but we understand the trustee’s wish to secure some form of tangible measure.
- (6) It is proposed that agreement is reached on a moratorium on employers exiting USS, which would last for a period of months – during which time the formal, longer-term rule amendments might be communicated to employers, explained and defined in further detail, and within which employers would have the opportunity to engage with, and gain the formal support of, their senior / governing bodies. We think it helpful not to specify the period of such a moratorium at this stage, but we hope that might be decided as these moratorium arrangements are themselves considered and finalised.
- (7) It is expected that the moratorium provisions would have appropriate legal status, and be enshrined within a separate legal document or potentially in the form of short-term rule amendments, to give them legal effect. Effectively, we see that employers would be unable to leave USS during the moratorium period without the trustee’s consent.
- (8) The moratorium proposal has some further distinct advantages, in addition to those expressed in paragraphs (3) and (6) above. We think these include:
 - (i) We think we would have the ability to move more quickly with a moratorium provision, which given its nature UUK believes would gain the support of employers;
 - (ii) The ability to move quickly is helpful in creating a path to the timely conclusion of the 2018 valuation, if that is the wish of the trustee and of the stakeholders at the JNC;
 - (iii) We would wish to use, wherever possible, the drafting of any legal texts already developed by the USS team for the moratorium provision;

- (iv) We think there would be an opportunity to discuss the prospect that UUK initiates and promotes the moratorium within the JNC (which we understand is the trustee's preferred sequence), something which may be more acceptable than if these changes were other than in the form of a moratorium provision;
 - (v) We think that any final changes will have the benefit of being developed and defined over a longer period; it will transmit confidence about the changes and avoid any sense (in the minds of employers) that modifications of importance are being made in haste;
 - (vi) We believe this will meet the trustee's objectives – and those of its covenant advisers – in avoiding a sequence of employers choosing to exit from USS under the current terms (when crucially they might not have otherwise planned to do so).
- (9) We should make clear that this is an initial proposal at this stage, provided on a without prejudice basis. For the avoidance of doubt, we still believe that it will be a very significant step by employers to support the changes sought, even for a moratorium period at least initially, and whilst we cannot guarantee their support, we will do our very best to build an appropriate consensus and believe we will have a chance of doing so.
- (10) Clearly further work will need to be undertaken, and indeed a fuller definition of the moratorium provisions and how they would conclude will need to be decided on to give it legal form and effect. We have not inserted any of those further details into this note at this stage, in the hope that agreement can be reached on the broader approach.
- (11) We believe that the moratorium approach is the best formulation to meet the trustee's concerns at this time, whilst also allowing an appropriate communications plan to be developed and delivered, and also allowing employers time and space to understand the rationale for the changes, to consider the proposed changes, and to debate the issues more fully. We were particularly grateful to hear the presentation from Jeff Rowney and colleagues from PwC to a recent meeting of the Employers Pensions Forum and, for example, we would welcome similar engagement with employers more widely during the period of moratorium. Crucially, we need to allow senior / governing bodies a full opportunity to consider the proposals in good time. Without this moratorium, we believe there may be difficulties, potentially insurmountable, in securing support for the rule changes sought by the trustee, and therefore putting at risk what we believe can be an effective outcome to the 2018 valuation.