

Q&A: The views of employers on the USS Trustee's three options – June 2019

On 7 June 2019, Universities UK (UUK) confirmed the consensus view of employers on the three options presented by the USS Trustee for the conclusion of the 2018 valuation. Following a consultation, a majority of employers - representing 85% of the scheme's active membership - expressed an indicative preference to further explore Option 3 as a potential solution to the 2018 valuation.

The following questions and answers address this position, and other issues relating to the finalisation of the 2018 valuation.

They are intended to be drawn from to assist with any enquiries received locally by employers.

They are not exhaustive. For further assistance in answering questions about the 2018 valuation process, please contact pensions@universitiesuk.ac.uk

1. Why did many employers back Option 3?
2. What more is needed to take Option 3 forward?
3. What about The Pensions Regulator's letter which was critical of Option 3?
4. Why can't employers refuse to pay additional contributions and join with UCU to push for a 'No detriment' solution?
5. Will employers be forced to pay the full cost of any future contributions increases?
6. Why should contributions increases arising from the 2018 valuation be cost shared?
7. What will happen if the Joint Negotiating Committee cannot decide on a way forward?
8. What were the employers' grounds for supporting a 2018 valuation?

1. Why did many employers back Option 3?

When consulted by Universities UK, a majority of employers - representing 85% of the scheme's active membership - expressed an indicative preference to further explore Option 3 as a potential solution to the 2018 valuation. Among the other responses there was indicative preference for Option 1 (representing 0.1% of the active membership) and Option 2 (representing 0.5% of the active membership) and other employers (representing 6% of the active membership) did not, or felt they could not, express an indicative preference or dismissed all three options.

For employers, Option 3 allows time for the Joint Expert Panel (JEP) to develop recommendations on the long-term sustainability of the scheme and for necessary governance reforms, and for those recommendations to be considered by members, employers and the USS Trustee as part of a new valuation in 2020. Employers are hopeful that if the Panel's recommendations are incorporated, a solution to the long-term future of the scheme can be found, providing much-needed clarity for both members and employers.

Concluding the valuation under Option 3 is also favoured by employers as the 'least-worst' option, as it involves contributions at a more affordable level for members and employers (in the short-term) than proposed under the Trustee's other options, and also those currently scheduled under the 2017 valuation. If all of the Trustee's options are rejected, we understand that the default path would result in significantly higher contributions: either a combined rate of 35.6% if the 2018 valuation is not concluded, or more likely, a solution in line with Option 1, with a combined rate of 33.7% split 35:65 between scheme members (10.7%) and employers (23%).

2. What more is needed to take Option 3 forward?

Employers now require further detail on Option 3 from the USS Trustee, in order to understand more about the conditions that are attached (relating to the taking on of new debt, the monitoring and reporting of existing debt, and the ability of employers to exit the scheme) and to establish whether the valuation could be concluded under these terms. A significant number of employers have also indicated that they want further details on the quantum of risk involved, and on the recovery plan.

Employers will be consulted again once the USS Trustee has provided these details, to inform discussions at the next meeting of the Joint Negotiating Committee in July.

3. What about The Pensions Regulator's letter which was critical of Option 3?

Any conclusion to the 2018 valuation must take into account the views of employers, members, the USS Trustee and The Pensions Regulator.

The USS Trustee is currently engaging with The Pensions Regulator to address the concerns raised in their letter. Employers will also continue to make representation to the Regulator.

4. Why can't employers refuse to pay additional contributions increases, and join with UCU to push for a 'No detriment' solution?

Refusing to pay contributions increases scheduled under the 2017 valuation would be unlawful. The 2017 valuation documentation, including the rates of contributions, has been filed with The Pensions Regulator, and as such employers are legally obliged to pay additional contributions under the terms of that schedule.

Refusing to pay increases would undoubtedly provoke a legal intervention from the USS Trustee and The Pensions Regulator, and this is something that employers are unwilling to risk.

Employers recognise that the process of concluding the 2018 valuation must take the views of all stakeholders into account. However, it is clear that a 'No detriment' solution where employers and members refuse to pay additional contributions will not be acceptable to the USS Trustee or The Pensions Regulator. It is therefore reasonable and pragmatic to instead consider the options the USS Trustee has put forward (notwithstanding the criticisms made of Option 3 by The Pensions Regulator, which we understand are being addressed by the Trustee).

5. Will employers be forced to pick up the full cost of any future contributions increases?

Motions passed at UCU's recent annual congress call on employers to pay the full cost of any future contributions increases, including those arising from the 2017 valuation. As previously mentioned, the rates of contributions due under the 2017 schedule have been confirmed and filed with The Pensions Regulator and are therefore required by law, and it is not possible to modify the rates set.

Members and employers should note that it is ultimately for the Joint Negotiating Committee (JNC) to decide how any increases in costs arising from future valuations should be met. Under the scheme rules, if there is no decision at the JNC, the default position is that any increased costs (or savings) are shared in the ratio 35:65 between scheme members and employers.

The JNC is made up of five representatives from UCU, five representatives from UUK, and an independent chair. The JNC's options are to increase contributions or change future benefits, or a combination of both.

Under Rule 76.4-8 of the scheme, if the JNC is unable to decide on a solution the USS Trustee can opt to conclude the valuation with the required contributions increases split 35:65 between and scheme members and employers.

6. Why should contributions increases arising from the 2018 valuation be cost shared?

It is an important principle of the scheme that contribution increases are split 35:65 between and scheme members and employers, and this principle should be maintained for any contributions increases arising from the 2018 valuation.

It is possible that at future valuations the level of contributions required to fund future benefits could be lower than those arising from the 2018 valuation; having a set cost sharing formula is therefore vital for ensuring that both members and employers benefit from lower contributions, should they come to pass.

7. What will happen if the Joint Negotiating Committee cannot decide on a way forward?

If employer and member representatives at the Joint Negotiating Committee are unable to decide on a way forward with Option 3, the USS Trustee may ultimately choose to conclude the valuation in a manner that it determines appropriate - which may involve contributions in line with those proposed under Option 1 (33.7%). Under the scheme's cost-sharing arrangements, this would mean contributions of 23% for employers and 10.7% for employees.

Employers and members should note that if the Joint Negotiating Committee's discussions aren't concluded quickly, it will be very difficult to conclude the 2018 valuation before further contributions increases due in October 2019 come into effect, under the 2017 valuation schedule of contributions.

8. What were the employers' grounds for supporting a 2018 valuation?

Employers were supportive of the idea of a 2018 valuation as they believed it would provide further time for the USS Trustee to consider the JEP's recommendations, and to allow discussions on risk appetite to be reopened. Holding a 2018 valuation also allowed the latest data and market experience to be properly incorporated.

Employers and members should note that the JEP's report maintained 'there are a number of different paths the USS Trustee could adopt to reduce the contribution rate to below 30%', and that its recommendations were illustrative of one such path. The 2018 valuation proposed by the USS Trustee should be viewed as an alternative path, but one that nonetheless has reduced the contribution rate to within a fraction of a percent of what the JEP deemed possible.