

**A consultation by Universities UK (UUK) with USS employers on the requirements set out by the USS trustee which would enable the conclusion of the 2018 actuarial valuation in line with option 3**

You will recall that UUK wrote to the USS trustee on 6 June 2019 to confirm that, following a consultation, employers had [indicated their wish to further explore option 3](#) as a potential outcome to the 2018 actuarial valuation. We thank employers for their careful consideration of those issues and for their responses.

As anticipated, we begin a further period of consultation with employers now that we have heard more from the trustee on its requirements for finalising the valuation on the option 3 basis.

In recent weeks, discussions have taken place with the USS team regarding the USS trustee's requirements, and as initially indicated these fall into three specific areas:

- *Debt monitoring* – the need for employers to engage more fully with the USS trustee on institution debt, and to share information and make regular reports;
- *Prioritisation of USS as a creditor* – the USS trustee wishes to ensure that other creditors are not given priority over USS on new secured borrowing (sometimes referred to as USS seeking at least *pari passu* status with other creditors), and
- *Employers exiting from USS* – the wish to ensure that the USS trustee has powers to manage the scenario where a strong employer considers leaving the scheme.

The initial discussions with the USS team have been constructive, and have included a presentation from the trustee's covenant advisers PwC on their assessment of the scheme's covenant and the rationale for the trustee's requirements. The USS trustee board met on 20 June 2019 and two documents have been prepared by USS – comprising a letter from Bill Galvin to UUK dated 26 June 2019 and an explanatory note – which are attached.

The discussions with USS have at this stage primarily focussed on the third of the above issues, of employers exiting from USS – and specifically to consider the trustee's wish to protect the employer covenant through rule amendments which would give it greater control over the ability of employers to leave the scheme. A number of potential options have been discussed; we believe the response from the USS trustee to a potential alternative has been positive.

After having heard the detailed rationale for the trustee's requirements, UUK believes that employers need time to consider the issues more fully before deciding whether they would be willing to support any enduring changes to the scheme in this area, and if so in what form they might be acceptable. This period of time would allow structured communications to take place with employers on the importance of covenant, on the current challenges, on the legal structures within which USS operates and on the views of the USS trustee's covenant advisers. These communications, and this period of consideration, would give employers the opportunity to engage with their leadership and governing bodies as appropriate, to potentially take their own legal advice, and to consider the implications of what might emerge from the Joint Expert Panel's second phase of work.

There is, however, a need for the USS trustee to be reassured that there are sufficient measures in place now to protect the covenant provided by employers to the scheme, so that a continuing strong covenant can be confidently asserted – something which UUK believes is appropriate – and for the 2018 valuation to be concluded. For these reasons, UUK has put forward to the USS trustee a suggestion – on a without prejudice basis, and which the USS trustee considered at its meeting

on 20 June 2019 – that a moratorium be agreed which would give the trustee discretionary control over any employer exits over the period to the next valuation. A copy of the proposal letter is attached. We believe this would meet the USS trustee’s objectives in providing the necessary protection for the covenant, and is something which employers would be willing to consider and which might potentially gain their support.

You will see from the attached letter and explanatory note from the USS trustee that it is willing to consider favourably a moratorium proposal – alongside the other measures on debt monitoring and its status as a creditor in cases of secured borrowing – to conclude the 2018 valuation. We are now engaged in further detailed exchanges with USS on the specifics. However, the timescales are tight, more of which is set out in the annex to this letter. Detailed texts are not available at this point, but nevertheless we felt it important to begin this next round of consultation with the focus for the time being on the headline principles, on the basis that we will provide fuller definition over the coming weeks and indeed months.

We welcome the views of employers on whether they would find it acceptable to put in place, in legal form, a moratorium on employers leaving USS without the consent of the USS trustee for the period through to the completion of the next actuarial valuation (as at 31 March 2020). We also seek the views of employers on the trustee’s requirements relating to debt monitoring, and to giving priority to USS on secured borrowing. We recognise that such views might only be expressed in principle at this stage, as fuller definition of the precise terms for these requirements is yet to be finalised. Indeed – as we explain further in the annex – we would envisage that a joint USS / employers working group might be appropriate to develop the debt monitoring and prioritisation arrangements fully and transparently.

We have been engaged with our actuarial and legal advisers in the development of the moratorium suggestion and analysis of USS’s responses, and in the next few days we will send to employers a copy of their respective comments and advice. We also plan to publish some Q&As on these issues on [www.USSEmployers.org.uk](http://www.USSEmployers.org.uk).

The initial views of employers on these issues are invited **by no later than midday on Tuesday 16 July 2019**; as we need to express a view to the USS trustee ahead of its meeting on 17 July 2019.

We would then plan to take these views in their collective form into the planned meeting of the Joint Negotiating Committee on 24 July 2019, so please ensure we have your formal view by this date.

We apologise once again for the imposition of such short timescales, but we hope that employers will understand the circumstances and the importance of securing an outcome to the 2018 valuation in line with the USS trustee’s option 3. We believe this represents the best available path to a conclusion of these issues, and to allow the second report of the Joint Expert Panel to be published and taken into account at the 2020 valuation.

Please feel able to be in contact with UUK’s pensions team – at [pensions@universitiesuk.ac.uk](mailto:pensions@universitiesuk.ac.uk) – if you would like any further information, and for example if there are particular questions which you believe we should cover in the Q&As. We are grateful for, and look forward to, your continued engagement on these important issues.

## Annex

### **A consultation by UUK with employers on the requirements set out by the USS trustee which would enable the conclusion of the 2018 actuarial valuation in line with option 3 – further information**

#### The rationale for these changes, and consideration of the alternatives

It is UUK's view that employers wish to conclude the 2018 valuation on the basis of the USS trustee's [option 3](#), as it would allow the second report from the Joint Expert Panel to be published and then taken into account in the run up to the next actuarial valuation (as at 31 March 2020). Employers are aware from the earlier UUK consultation of the limited options available for the timely conclusion of the 2018 valuation; their general view was that the best of the available paths is the trustee's option 3. It is recognised that a number of employers considered that none of the options put forward by the trustee were desirable, however a pragmatic route to the conclusion of the 2018 valuation was, and is, needed.

The USS trustee has made clear that should it not be possible to reach a decision on option 3 – and importantly if the requirements to protect the covenant cannot be secured – it would cause the USS trustee to revisit its overall covenant assessment as (potentially) “tending to strong” rather than “strong”. As the USS trustee states, this is likely to mean that this would be reflected in a “lower valuation discount rate, and as a result a higher liability valuation and a requirement for higher contributions”.

In short, employers should be aware that if it is not possible to secure support for the option 3 outcome, then a valuation conclusion in line with the USS trustee's option 1 – upper bookend – is likely. This would mean an aggregate contribution rate of at least 33.7% of salary – and, as indicated, potentially higher due to the revised covenant opinion which might be decided by the USS trustee.

#### The effect of the changes which are being proposed

The proposed changes would, if implemented, prevent an employer leaving USS without the trustee's consent for the period of the moratorium. The moratorium is planned to run until the completion of the next actuarial valuation in 2020 (to a precise date which is to be specified).

#### The material attached to this consultation

- (a) A letter from Alistair Jarvis to USS's CEO, Bill Galvin dated 19 June 2019, which put forward a suggestion to the USS trustee for a moratorium on employers leaving USS.
- (b) A letter from Bill Galvin to Alistair Jarvis dated 26 June 2019 which sets out the USS trustee's response to the suggestion from UUK, along with other comments regarding the potential next steps.
- (c) An explanatory note, attached to (b) above, which explains the USS trustee's latest thinking on its requirements for conclusion of the 2018 valuation.

#### The material which will be issued by UUK in the coming days

- (a) Advice note and supplementary comments from UUK's advisers, Eversheds Sutherland and Aon.

(b) Q&As for employers on [www.USSEmployers.org.uk](http://www.USSEmployers.org.uk).

#### The key questions for employers at this stage

- (a) What are the views of employers on the principle of a moratorium on employers leaving USS, so that the USS trustee is given the consent in legal form to decide whether or not an employer can withdraw from USS? This moratorium would run until the completion of the next actuarial valuation as at 31 March 2020 (with the precise date to be decided), with a commitment to work to secure longer-term rule amendments.
- (b) Are employers supportive of providing a “firm commitment” to meet the USS trustee’s requirements in relation to debt monitoring and the prioritisation of USS as a creditor on any new secured debt (on the basis that the details and practicalities will be further defined in the coming period following detailed engagement, and potentially a joint USS / employer working group involving institutional finance directors and other specialists)?
- (c) Do employers wish to express any other comments on the trustee’s requirements as set out in the letter and explanatory note from USS’s CEO dated 26 June 2019?

#### Consultation question

Is your institution willing to accept and support the package of proposed measures to allow the covenant to be confirmed as “strong” and to conclude the 2018 valuation in line with option 3?

Please respond to the consultation on behalf of your institution to [pensions@universitiesuk.ac.uk](mailto:pensions@universitiesuk.ac.uk).

#### The indicative timeline

The following is the indicative timeline to which UUK is working to at this stage:

17 July 2019	The USS trustee meets, and the preliminary responses of employers to the questions set out in this consultation would be welcomed before this date.
Midday on 23 July 2019	The closing date and time for formal responses to this consultation.
24 July 2019	The Joint Negotiating Committee meets, and it is anticipated that it will be asked to decide on the proposed approach for the conclusion of the 2018 valuation including any proposed rule amendments.
≈29 July 2019	The commencement of a consultation by the USS trustee with UUK (and through it, to all employers) on the proposed recovery plan and schedule of contributions for the 2018 valuation. <i>NB: There is also likely to be a consultation with employers on the statement of investment principles, which may run concurrently.</i>
≈23 August 2019	Closing date for consultation on proposed recovery plan and schedule of contributions.
≈ early September 2019	Formal notification to employers of the employer and member contribution rates which are to apply from 1 October 2019 under the 2018 actuarial valuation.
1 October 2019	New contribution rates come into effect.