Document C2

Please note this consultation document sets out the provisions of the Framework under Scenario 3. Where the position would differ under Scenario 2, the changes have been highlighted in YELLOW.

DEBT MONITORING FRAMEWORK

PART A - POLICY

1 INTRODUCTION

1.1 This document relates to the Trustee’s debt monitoring framework and contains a number of sections.

1.2 The purpose of Part A - Policy is to explain why the Framework is necessary, describe the principles that the Trustee will follow in operating the Framework, and summarise how the Trustee will work with Employers to implement the Framework.

1.3 Part B – Requirements sets out the detail of the Framework, including how each metric will be calculated by the Trustee, and the typical source of each of the data items required from employers.

1.4 Part C – Process Flow Charts sets out diagrammatically the processes that will be used by the Trustee to collate and gather information from the Employers for debt monitoring purposes and also seek pari passu security, where required in accordance with the terms of the Requirements Document.

1.5 Part D – Worked Examples contains a number of hypothetical worked examples showing how the Trustee expects the Framework to operate in practice (the "**Worked Examples**"). The Worked Examples are included for illustrative purposes only. The Employers vary significantly in terms of size, operating models and structures and, as a result, each Employer's debt arrangements vary significantly. This means that the Trustee cannot set out, definitively, how it will act in circumstances where an Employer breaches the Monitoring Metrics. The Trustee must retain its discretion to take such action to protect the Scheme's Covenant as it sees fit (taking into account each Employer's particular circumstances and all powers available to the Trustee under the Scheme's Governing Documentation and applicable law and regulation).

1.6 Part E – Defined Terms: capitalised words used in this document that are not defined when used have the meaning given to them in Part E.

1.7 If there is any inconsistency between any of the Parts of this document and Part B - Requirements, the terms of Part B will prevail.

1.8 The Trustee will keep the terms of the Framework under review. If the Trustee (acting reasonably) decides that it is necessary or desirable to make material changes to the

Framework, or that the Framework is no longer required or is superseded, the Trustee will consult with Universities UK (on behalf of the Employers) before making any such changes.

1.9 All data provided under this Framework (including any discussions or correspondence undertaken as a result of the Framework) shall remain confidential and will not be disclosed by the Trustee unless agreed to by the Employer or unless required by law. From time to time the Trustee may share trends and other analysis with UUK on an anonymised basis which may inform future developments of the Framework.

2 BACKGROUND TO THE FRAMEWORK

2.1 As defined by TPR, the covenant provided by an Employer to the Scheme is the extent of the Employer's legal obligation and financial ability to support the Scheme now and in the future (the "**Covenant**").

2.2 Understanding the strength of the Covenant provided to the Scheme by the Employers is essential to the Trustee's management of the Scheme. In particular, decisions relating to investment and funding risks are based on the ability of the Employers to individually and collectively support the Scheme.

2.3 If the Covenant provided to the Scheme by the Employers is 'strong', this will benefit all Employers. It will allow the Trustee to:

(a) take a longer-term view on Scheme funding issues (for example, when considering the overall level of prudence in the actuarial assumptions and recovery plan);

(b) take appropriate investment risk (e.g. investing more in growth assets which have the potential to generate higher returns); and

(c) potentially, depending upon all relevant circumstances, avoid the need to require higher regular contributions from Employers to fund the Scheme in the future (thereby allowing Employers to retain capital to run their institutions and invest in future development).

2.4 The strength of the employer covenant supporting an occupational pension scheme can change materially over a short time period and, if it does, this could have significant implications for the scheme's investment and funding strategy. Therefore, TPR expects trustees to monitor the employer covenant regularly between formal assessments (alongside key investment and funding risks) so that they can act quickly to take decisive action to protect the covenant when required.

2.5 The overall Covenant rating for the Scheme for the 2018 actuarial valuation was 'strong' but on 'negative watch'. This was partly because Employer debt levels were increasing faster than the size of the sector, and there was no formal process in place for the Trustee to monitor and assess Employer debt levels on an ongoing basis. Employer debt is, therefore, a key aspect of the Covenant that the Trustee must monitor.

2.6 The purpose of the Framework is to document a process that allows the Trustee to continue to work openly and collaboratively with Employers to monitor Employer debt and take action, where necessary, to protect the Scheme's interests as a creditor where there is a Material

Weakening of an Employer's Covenant. A proportionate monitoring process, aided by good information sharing, is in the best interests of all Employers to ensure that the Scheme does not pose an unnecessary risk to their future sustainability.

2.7 The Framework sets out the detail of the monitoring process and the steps that the Trustee will take if the Monitoring Metrics are breached or if the Employers fail to co-operate with the Framework. The Monitoring Metrics have been set based on the Trustee's assessment of what changes to an Employer's debt position could result in a Material Weakening of its Covenant.

3 KEY PRINCIPLES UNDERPINNING THE FRAMEWORK

General

3.1 The aim of the Framework is to put in place a process where the Trustee and the Employers continue to work together to support and protect the Covenant provided to the Scheme by the Employers in circumstances where the debt levels of Employers are increased. Although actions taken by the Trustee under the Framework might represent additional calls on an Employer's resources, such actions should reduce the risk that the Scheme poses to the Employer and the likelihood that adverse changes in the Scheme could make an already difficult situation worse.

3.2 The Trustee will operate the Framework, including its engagement with employers, in a spirit of openness and transparency. Where possible it will work with any Employer where further engagement and/or action may be required to understand, listen and take into account all relevant information before making any decisions. In doing so it will be transparent with the relevant employer regarding the information and analysis of the employer’s position it has received and considered, and the factors influencing any decisions it makes (except where any conflicting legal or confidentiality requirements make this not possible).

3.3 The Framework is not intended to:

(a) undermine the 'mutuality of covenant' principle, which the Trustee acknowledges is of key importance to the Employers and the Trustee;

(b) add any unnecessary new administrative or operational burdens on Employers;

(c) impose unnecessary constraints on Employers, particularly in distressed situations;

(d) result in USS interference to the day-to-day operation of Employers’ businesses;

(e) enhance the Scheme’s position relative to the position of other secured creditors in existence at 1 August 2021;

(f) limit or restrict in any way the powers which the Trustee has available to it, both now and in the future, under the Scheme’s Governing Documentation and/or applicable law and regulation; or

(g) give the Trustee new powers in addition to those available to it by operation of the Scheme's Governing Documentation and/or applicable law and regulation.

Application of the Framework and exceptional circumstances

3.4 Given the potential effects of the COVID-19 pandemic on the sector and the Scheme's funding levels, the Trustee recognises that there is the potential for a significant number of Employers to breach the Monitoring Metrics in the early years of the Framework's operation who would not otherwise do so.

3.5 In particular, there may be Employers whose position against the metrics is impacted by their use of the University Support Package (USP) and/or HE Restructuring Regimes (HERR).

3.6 While different Employers may operate or be structured in many different ways, the Framework will apply to all Employers (subject to any carve-outs or de minimis criteria which may be specified by the Trustee from time-to-time).

3.7 The Trustee will have regard to an Employer's specific circumstances (including the impact of COVID-19, any usage of the USP and HERR resources, and any other exceptional circumstances) when considering any breach (or expected breach) of the Monitoring Metrics.

Costs

3.8 Ordinarily the Trustee's costs and expenses associated with operating the Framework will be met from the Fund. However, the Requirements Document contains specific exceptions to this general principle covering circumstances in which the Trustee considers that it is reasonable for an Employer to meet the Trustee's reasonable costs and expenses directly. As a result, the Scheme's Schedule of Contributions will include wording which expressly acknowledges that, in certain circumstances, Employers might be required to pay directly to the Trustee costs and expenses reasonably incurred by the Trustee in operating the Framework.

3.9 Where an Employer is expected to meet the Trustee's reasonable costs and expenses, the Trustee will provide the Employer with details of its costs and expenses upon reasonable request (and, where possible, will provide the Employer with details of any costs and expenses that the Trustee expects to incur before they are incurred).

4 OPERATION OF THE FRAMEWORK – A SUMMARY

Collecting information from Employers

4.1 The Trustee will ask Employers annually to complete a short online form and submit a number of key figures from their accounts. Appendix 2 to Part B of this document sets out the minimum data and other information that an Employer will be required to provide in relation to each Monitoring Metric annually (including where that data may be found on HESA and OfS submissions, if the Employer is required to make such submissions).

4.2 Employers will be given the option to self-certify that they are not in breach of the Monitoring Metrics and do not expect to breach the Monitoring Metrics within the next 12 months.

4.3 In between annual submissions, unless notified otherwise, each Employer will be required to provide the Trustee with certain additional information on an ad-hoc basis as specified in the Requirements Document.

Review of information from Employers

4.4 Following receipt of the annual submission from an Employer (or, where an Employer provides information in between annual submissions, following receipt of that information), the Trustee will review the annual submission/information (together with publicly available information relating to the Employer) in order to assess whether there has been a Trigger Event.

4.5 Further engagement between the Trustee and the Employer may take place where the Trustee (acting reasonably) considers that a Trigger Event has occurred.

4.6 Appendix 1 to Part C of this document sets out the Trustee's process for collecting and reviewing information from Employers diagrammatically.

Further engagement - General

4.7 Where further engagement is required, the Trustee will contact the Employer for a discussion in order to gain a better understanding of the Employer's situation. The Trustee appreciates that Employers are subject to many competing pressures and priorities and will seek to fully understand, and have regard to, such matters when working with an Employer to determine what further action it will take (if any) in response to a breach (or expected breach) of the Monitoring Metrics. As mentioned above, the Trustee does not want to impose unnecessary burdens on Employers, particularly where an Employer is in financial distress; indeed, where an Employer is in such a situation, the Trustee would wish to support the Employer so far as possible.

4.8 No direct engagement will be undertaken with any employer with total assets <£50m and annual income <£50m in the most recent financial year.

S2: No direct engagement will be undertaken with any employer who is not material to the Covenant, based on a combination of gross assets, total income, and other metrics which secure the appropriate Covenant strength and are agreed with UUK.

Further engagement - Breach of Monitoring Metrics A-D

4.9 If the further engagement relates to a breach (or expected breach) of the relevant Monitoring Metrics A to D, the Trustee might decide that no immediate further action is necessary after evaluation of the Employer's data and/or following initial discussion with the Employer. In the majority of cases, this is the position the Trustee would hope to find itself in, but this will need to be properly assessed by the Trustee on a case-by-case basis. If the Trustee believes that there is a Material Weakening of the Employer's Covenant, the Trustee will enter into further discussion with the Employer to try to agree suitable mitigation measures. Subject to paragraph 1.2 above, see Part E - Worked Examples for some examples of the types of measures that might be agreed.

Further engagement - Breach of Monitoring Metric E or Trustee notified of a Floating Charge Proposal

4.10 As the Scheme is an unsecured creditor (without security or other collateral), there is a significant risk to Covenant strength if an Employer's assets are pledged to lenders or other third parties because the Scheme's position as a creditor is subordinated.

4.11 Therefore, if the further engagement has been triggered:

(a) as a result of a breach (or expected breach) of Monitoring Metric E; or

(b) because the Trustee has been notified of a Floating Charge Proposal,

the Trustee will enter into discussions with the Employer to try to agree suitable mitigation measures.

4.12 As a minimum, the Trustee will require the Employer to provide pari-passu security before the Employer takes on new or additional secured debt, and/or grants security for existing unsecured debt, in each case on or after 1 August 2021 (unless, in exceptional circumstances, the Trustee decides that it is appropriate to agree an alternative security package with the Employer). Details of the pari passu security required by the Trustee should be read in full and can be found in paragraph 6 of the Requirements Document.

4.13 It is important to note that the Trustee is only seeking to protect the Scheme's creditor position and potential recovery on insolvency by requesting pari-passu security – it is not seeking to enhance its position relative to other secured creditors.

Further engagement - Quasi-Security

4.14 If the further engagement has been triggered because the Trustee has been notified of a Quasi-Security Proposal, the Trustee will enter into discussions with the Employer to try to agree suitable mitigation measures.

5 FAILURE TO AGREE SUITABLE MITIGATION MEASURES FOLLOWING FURTHER ENGAGEMENT OR FAILURE BY AN EMPLOYER TO COMPLY WITH THE FRAMEWORK

5.1 Legislation and the Scheme's Governing Documentation support the Trustee in requiring an Employer to comply with the Framework.

5.2 The Trustee's preference will always be to work to secure the cooperation of Employers rather than penalise non-cooperation, and it will seek to work with Employers in an open and transparent manner. However, the Trustee might decide that it needs to take unilateral action to protect the Covenant/enforce the Framework in circumstances where it considers (acting reasonably) that it is not going to be possible to agree suitable mitigation measures with an Employer by continuing with the further engagement process or where an Employer has failed to comply with the Framework.

5.3 The actions that the Trustee might take range (depending on the circumstances) from notifying TPR of its concerns to taking unilateral action using the powers available to the Trustee under the Scheme's Governing Documentation and applicable law and regulation such as:

(a) its power under Rule 6.1 of the Scheme Rules to require an Employer to pay additional contributions or accelerate payment of existing contributions due; or

(b) its power under the definition of "Withdrawing Institution" and/or Rule 44.3 of the Scheme Rules to make an Employer a "Withdrawing Institution" under the Scheme Rules (thereby triggering a section 75 debt).

5.4 In support of the Framework, the Scheme's Schedule of Contributions will include wording which expressly acknowledges that one of the remedies available to the Trustee (where it decides that action should be taken in an individual case) could be to accelerate the payment of Employer contributions or require an Employer to pay additional contributions.

5.5 The Trustee will construct a formal process of appeal for employers, which can be used where an employer disputes the Trustee's proposed action(s).

5.6 The Trustee will not engage with an Employer to achieve additional contributions (or take other unilateral action) under the Framework where it considers that:

(a) After review of the Employer's financial details and covenant position, no further engagement is needed; or

(b) That the Employer is complying with the Framework (i.e. providing the required information and engaging with the Trustee when required); and

there has not been a Trigger Event.

DEBT MONITORING FRAMEWORK

PART B - REQUIREMENTS

Date adopted by the Trustee: ________

1 INTRODUCTION AND INTERPRETATION

1.1 The purpose of Part B - Requirements is to document a process that allows the Trustee to continue to work openly and collaboratively with Employers to monitor Employer debt and take action, where necessary, to protect the Scheme's interests as a creditor where there is a Material Weakening of an Employer's Covenant. A proportionate monitoring process, aided by good information sharing, is in the best interests of all Employers to ensure that the Scheme does not pose an unnecessary risk to their future sustainability.

1.2 Capitalised words used in Part B - Requirements have the meaning given to them in the document headed "Debt Monitoring Framework: Glossary of Terms".

1.3 If there is any inconsistency between: (i) Part B - Requirements and any other part of this document, the terms of Part B will prevail.

1.4 The Framework is without prejudice to the powers available to the Trustee under the Scheme's Governing Documentation and applicable law and regulation.

2 TRUSTEE'S POWER TO REQUEST INFORMATION

2.1 The information requested from Employers under this Framework is being requested under Regulation 6 of The Occupational Pension Schemes (Scheme Administration) Regulations 1996 (the "**Scheme Administration Regulations**").

2.2 Under Regulation 6(1)(a) of the Scheme Administration Regulations, each Employer has a duty to disclose, on request, such information as is reasonably required by the Trustee to perform its duties.

2.3 Under Regulation 6(1)(b) of the Scheme Administration Regulations, each Employer has a duty, within one month of the relevant event occurring, to disclose to the Trustee the occurrence of any event relating to the Employer which there is reasonable cause to believe will be of material significance in the exercise of the Trustee's duties (e.g. an event that would have a materially significant impact on the Employer's covenant).

2.4 Employers' Deeds of Accession also generally contain similar provisions requiring Employers to supply the Trustee with such information as may reasonably be needed for the proper administration of the Scheme.

2.5 If an Employer is concerned that it cannot disclose information to the Trustee without breaching confidentiality obligations it owes to a third party, the Trustee will enter into a confidentiality agreement with the Employer, where required.

3 SUBMISSION OF INFORMATION BY EMPLOYERS

Annual submission

3.1 Annually (generally in the first quarter of each year), each Employer must complete an online form and submit it to the Trustee.

3.2 The online form will require the Employer to provide certain financial information (based on the Employer's most recently audited financial statements for the last financial year) to enable the Trustee to assess that Employer against the relevant Monitoring Metrics. It will also require the Employer to confirm whether it expects to breach any of Monitoring Metrics A to E in the next 12 months.

3.3 If an Employer:

(a) does not have any debt or borrowing; or

(b) based on its own calculations, does not believe (acting reasonably) that it breaches any of the Monitoring Metrics; and

(c) believes (acting reasonably) that the situation will not change in the next 12 months,

it will be given the option to self-certify that this is the case rather than submit full data ("**Self-Certification**").

3.4 ***Ad-hoc submission*** Each Employer, unless notified otherwise, will be required to provide the Trustee with the following information on an ad hoc basis:

(a) a copy of any formal notification relating to financial sustainability made by it to the Office for Students (or any equivalent regulatory body);

(b) from 1 August 2021, where an Employer becomes aware of a change or plans to implement a change (actual or proposed) in its debt position since its last annual submission that has resulted (or is expected to result) in any of the relevant Monitoring Metrics A to D being breached, to notify the Trustee within one month of the Employer becoming aware of the relevant event occurring or relevant decision being taken (as applicable);

(c) where it proposes to:

(i) take on new or additional secured debt, and/or grant security for existing unsecured debt, in each case on or after 1 August 2021, and this would result in:

(A) a breach of Metric E; or

(B) a floating charge being granted over the Employer's full asset base, irrespective of the quantum of debt (a "**Floating Charge Proposal**"); or

(ii) enter into Quasi-Security (a "**Quasi-Security Proposal**"),

details of the proposal at least 12 weeks before the security or Quasi-Security is entered into (unless the Trustee agrees (acting reasonably) that there are exceptional circumstances that mean 12 weeks' notice cannot be given – see to paragraph 3.5 below); and

(d) any other information relating to an event that it ought reasonably to consider (bearing in mind the Framework) will be of material significance in the exercise by the Trustee of its functions with such information provided within one month of the relevant event occurring or relevant decision being taken (as applicable).

3.5 For the avoidance of doubt, after 1 August 2021 the Trustee still expects, unless it has notified the Employer otherwise, to receive a notification from an Employer under paragraph 3.4(b) above where, in between annual submissions, an Employer expects to breach any of Monitoring Metrics A to D because of a downturn in its financial performance so that the Employer would trigger further engagement in accordance with paragraph 4.2.

3.6 Where an Employer considers that there are exceptional circumstances for the purposes of paragraph 3.4(c), it should contact the Trustee as soon as possible and, in any event, before taking on new or additional secured debt and/or granting security for existing unsecured debt and/or entering into Quasi-Security. An example of exceptional circumstances would be if an Employer was in distress and required financial support to manage liquidity within less than 12 weeks. In such circumstances, the Employer should notify the Trustee of its intention to take on new or additional secured debt, and/or grant security for existing unsecured debt, and/or enter into Quasi-Security as soon as discussions begin with the third party to whom security is being given.

Review of information by the Trustee

3.7 All information provided to the Trustee by Employers (including, for the avoidance of doubt, Self-Certification submissions) can be reviewed by the Trustee (and checked against publicly available information) to determine whether there has been a Trigger Event.

3.8 If it is discovered that information provided by an Employer to the Trustee as part of an annual submission was materially inaccurate or incomplete at the time of submission, the Employer will be expected to pay directly to the Trustee all costs and expenses reasonably incurred by the Trustee in carrying out a full assessment of the Employer against the Monitoring Metrics. For the avoidance of doubt, a Self-Certification submission from an Employer will be considered to have been materially inaccurate where publicly available information shows that it should not have been made (i.e. where the publicly available information shows that there would have been a Trigger Event at the time of the annual submission if the Employer had not self-certified).

4 MONITORING METRICS

4.1 The Monitoring Metrics will be used to monitor each Employer's financial leverage, ability to service debt and levels of secured debt.

4.2 Where:

(a) the Trustee (acting reasonably) considers that:

(i) all four of the relevant Monitoring Metrics A to D are breached (or expected to be breached) in one financial year – see paragraph 4.3 below; or

(ii) any three of the relevant Monitoring Metrics A to D are breached (or expected to be breached) in two consecutive financial years (for the avoidance of doubt, it does not need to be the same Monitoring Metrics that are breached in both years) – see paragraph 4.3 below; or

(iii) Monitoring Metric E is breached (or expected to be breached) in any one financial year – see paragraph 4.4 below; or

(b) the Employer notifies the Trustee of:

(i) a Floating Charge Proposal; or

(ii) a Quasi-Security Proposal,

(each event described in 4.2(a) and 4.2(b) being a "**Trigger Event**"),

the Trustee will review the Employer's financial details and covenant position, and engage with the employer where it feels it is necessary to do so.

4.3 For the purposes of paragraph 4.2(a)(iii) and (ii) above (i.e. the Trustee's assessment as to whether Monitoring Metrics B-D are breached or expected to be breached), if Metric A shows gross debt is less than 25% of net assets (excluding pension provisions) AND the Trustee's estimate of an employer's share of the total scheme section 75 debt is less than 0.1%, then Metrics B to D will not apply for that employer in that year.

4.4 For the purposes of paragraph 4.2(a)(iii) above (i.e. the Trustee's assessment as to whether Monitoring Metric E is breached or expected to be breached), the following will apply:

(a) Metric E will not be breached where the total secured borrowings:

(i) equate to less than 10% of consolidated net assets (excluding pension provisions) **S2:** less than 20% of consolidated net assets (excluding pension provisions) ; and

(ii) are secured on assets the value of which do not exceed 10% of the Employer's consolidated gross assets. (Note: this does not apply to debt secured by a floating charge over an employer's full asset base). **S2:** this second leg of the test is removed.

(b) Irrespective of whether an employer breaches the requirements of paragraph 4.4(a) above, total aggregate security over specific assets is exempt if the total aggregate value of such assets is less than the higher of:

(i) 2% of net assets and excluding pension provisions; and

(ii) £0.5m.

(c) Debt instruments which fall outside of paragraph 4.4(b) will be considered on a case by case basis. The review should take into account the principle that if debt is funding a new asset, which is expected to grow revenue and enhance covenant, rather than funding a replacement asset, and is only secured against the new asset (as opposed to any existing assets), it will be exempt (e.g. security granted in favour of grant awarding bodies over an asset that has been funded by the grant in order to secure the grant awarding bodies' conditions).

5 FURTHER ENGAGEMENT

5.1 This section does not apply to any employer with total assets <£50m and annual income <£50m in the most recent financial year. **S2:** This section does not apply to any employer who is not material to the Covenant, based on a combination of gross assets, total income, and other metrics which secure the appropriate Covenant strength and are agreed with UUK.

5.2 Where further engagement is required the Trustee will notify the Employer of this fact and enter into discussions with the Employer in order to gain a better understanding of the Employer's situation. The Trustee (acting reasonably) may request further information from the Employer to assist it with this, which the Employer must provide to the Trustee promptly upon request.

Further engagement – Breach of Monitoring Metrics A-D

5.3 If the further engagement relates to a breach (or expected breach) of the relevant Monitoring Metrics A to D, the Trustee might decide that no immediate further action is necessary following its initial discussion with the Employer.

5.4 If, however, the Trustee believes that there is a Material Weakening of the Employer's Covenant, the Trustee will enter into further discussions with the Employer to try to agree suitable mitigation measures.

Further engagement – Breach of Monitoring Metric E or Trustee notified of a Floating Charge Proposal

5.5 If the further engagement is required as a result of a breach (or expected breach) of Monitoring Metric E, or because the Trustee has been notified of a Floating Charge Proposal:

(a) the Trustee will enter into discussions with the Employer to try to agree suitable mitigation measures and, subject to paragraph 5.6 below, the Employer will be required, as a minimum, to provide pari-passu security in accordance with paragraph 6 below before the Employer takes on new or additional secured debt, and/or grants security for existing unsecured debt, in each case on or after 1 August 2021; and

(b) the Employer will be expected to pay directly to the Trustee all costs and expenses reasonably incurred by the Trustee in relation to the granting, amendment and release of pari-passu security to the Scheme (including, for the avoidance of doubt, the Trustee's costs relating to discussions about and implementation of the same).

5.6 There might be exceptional circumstances where the Trustee decides that it is appropriate to agree an alternative security package with an Employer who would otherwise be required to provide pari-passu security because Metric E was breached or the Trustee is notified of a Floating Charge Proposal.

5.7 If an Employer is required to provide pari-passu security because Metric E was breached or the Trustee is notified of a Floating Charge Proposal and the Trustee (acting reasonably) does not consider that pari-passu security alone provides adequate mitigation, it will also try to agree suitable additional mitigation measures with the Employer.

5.8 The Employer will co-ordinate and oversee any information exchange required between prospective creditors and the Trustee in relation to pari-passu security.

Further engagement – Trustee notified of a Quasi-Security Proposal

5.9 If the further engagement is required because the Trustee has been notified of a Quasi-Security Proposal, the Trustee will enter into discussions with the Employer to try to agree suitable mitigation measures.

6 PARI-PASSU SECURITY

6.1 Where the Trustee requires an Employer to provide pari-passu security pursuant to paragraph 5.5(a) above:

(a) the amount of the liabilities to the Trustee to be secured will be an amount equal to the Employer's share of the Technical Provisions Deficit (calculated based on the results of the Scheme's last triennial actuarial valuation) or, if higher, an amount equal to the lower of:

(i) the quantum of new or additional and/or existing debt granted security on a £ for £ basis, but excluding the amount of any debt already secured as at 1 August 2021; and

(ii) the Employer’s share of the Section 75 Deficit calculated at the point the security is called upon by the Trustee,

and will rank pari-passu with the amount of new or additional and/or existing debt granted security on a £ for £ basis, but excluding the amount of any debt already secured as at 1 August 2021 (which, for the avoidance of doubt, will rank ahead). Pari passu will not be applied to secured debt that refinances secured debt originally in place at 1 August 2021 if there is no material change in total secured debt, the assets secured, and security terms (i.e. a like for like replacement or substantially the same); and

(b) the Trustee should be granted the same class of charges over the same assets as the third party that has been granted security unless the Trustee agrees to an alternative (i.e. if the third party is granted fixed charges over specific assets, the Trustee would take similar fixed charges over the same assets unless the Trustee agrees to take similar fixed charges over similar assets. Similarly, if the third party is granted floating charges over other assets, such as the whole of an institution's assets and undertaking, the Trustee would take similar floating charge security); and

(c) the Trustee will provide the initial draft of the security documentation (including any intercreditor arrangements) unless otherwise agreed between the Trustee and the Employer.

6.2 If the secured debt that led to the granting of the pari-passu security is subsequently repaid by the Employer (and the security supporting that secured debt is released in full), the Employer must notify the Trustee and confirm whether or not it expects to breach Monitoring Metric E before its next annual submission.

6.3 If the Trustee is able to satisfy itself, having taken professional advice, that doing so would not lead to a Material Weakening in the Scheme's Covenant beyond the release of the pari-passu security itself and that there was no compelling reason (in the Trustee's reasonable opinion) why doing so would place the Scheme in a materially worse creditor position (including potential recovery on insolvency) in relation to that Employer than prior to the pari-passu security being granted, USS will release its pari passu security as soon as is reasonably practicable following the notification in 6.2 above.

6.4 If the Trustee is unable to satisfy itself as described in paragraph 6.3, the Trustee will engage the Employer in further discussion to consider whether the pari-passu security could be exchanged for an alternative form of protection and/or the level of security adjusted in order to ensure that the Scheme does not inadvertently find itself in a materially better creditor position in relation to that Employer, by retaining the pari-passu security and at its existing level, than it was in prior to the pari-passu security being granted.

7 FAILURE TO AGREE SUITABLE MITIGATION MEASURES FOLLOWING FURTHER ENGAGEMENT OR FAILURE BY AN EMPLOYER TO COMPLY WITH THE FRAMEWORK

7.1 If, after a reasonable period has expired since the Trustee commenced the further engagement process pursuant to paragraph 5.2 above, the Trustee (acting reasonably) considers that it is not possible to agree satisfactory mitigation measures, the Trustee may take unilateral action (using the powers available to it under the Scheme's Governing Documentation and applicable law and regulation) to protect the Scheme from the Material Weakening of the Employer's covenant.

7.2 Before doing so however the Trustee will use its best endeavours to ensure the relevant Employer has a full understanding of the Trustee's position and its evaluation of the Employer's position, including sharing the information and analysis of the employer's position it has received and considered, and the factors influencing any decisions it has made (except where any conflicting legal or confidentiality requirements make this not possible). The Trustee will also hear and consider any representations the Employer makes in relation to its own position, and offer to the Employer the opportunity to appeal the Trustee's decision through a formal appeals process to be drawn up.

7.3 If:

(a) the Trustee considers (acting reasonably) that an Employer has failed to comply with the Framework; and

(b) where the Employer's breach is capable of remedy:

(i) the Trustee has notified the Employer of its non-compliance and given the Employer a reasonable period within which to remedy its non-compliance; and

(ii) the Employer has failed to remedy its non-compliance within the time period specified by the Trustee,

then, depending upon the extent of the Employer's non-compliance, the Trustee may take further action as it considers appropriate in the circumstances.

7.4 For the avoidance of doubt, the Trustee will not be prevented from taking unilateral action in the event that it does not first give the Employer notice of its non-compliance (e.g. in circumstances where the Trustee (acting reasonably) considers that the Employer's breach is not capable of remedy or that it needs to act quickly to protect the Scheme).

7.5 For the purposes of this paragraph 7, it is important to note that the Trustee has a unilateral power under Rule 6.1 of the Scheme Rules to require any Employer to contribute to the Fund the amounts determined by the Trustee, acting on actuarial advice, to be required to satisfy the rights of members to benefit under the Scheme. However, the Trustee will not engage an Employer to require the payment of additional contributions or accelerate payment of existing contributions due (or take other unilateral action) under the Framework where it considers that the Employer is:

(a) complying with the Framework (i.e. providing the required information and engaging with the Trustee when required); and

(b) there has not been a Trigger Event.

7.6 Appendix 2 to Part C – Process Flow Charts also diagrammatically sets out the process that the Trustee will follow when seeking pari passu security from the Employers, where required in accordance with the terms of the Requirements Document.

APPENDIX 1 TO PART B - REQUIREMENTS: Monitoring Metrics

Monitoring Metric	Calculation	Threshold
Metric A* Gross debt : Net assets excluding pension provisions	Bank loans and external borrowing (short term and long term) **PLUS** bank overdrafts **PLUS** obligations under finance leases and service concessions (on balance sheet short and long term) **-----ALL DIVIDED BY-----** Net assets **PLUS** pension provisions	Threshold is exceeded where the result of the Calculation is that gross debt is >50% of net assets. Where the result of the calculation is <25%, Metrics B to D may not apply (see para 4.3.
Metric B* Gross debt : Total income	Bank loans and external borrowing (short term and long term) **PLUS** bank overdrafts **PLUS** obligations under finance leases and service concessions (on balance sheet short and long term) **-----ALL DIVIDED BY-----** Total income	Threshold is exceeded where the result of the Calculation is that gross debt is >50% of total income
Metric C* Gross debt : Net cash flow from operations	Bank loans and external borrowing (short term and long term) **PLUS** bank overdrafts **PLUS** obligations under finance leases and service concessions (on balance sheet short and long term) **-----ALL DIVIDED BY-----** Net cash flow from operations **PLUS** regular endowment income	Threshold is exceeded where the result of the Calculation is that gross debt is >5x net cash flow from operations
Metric D Interest Cover	Net cash inflow from operations **PLUS** regular endowment income **-----ALL DIVIDED BY-----** Interest paid **PLUS** interest element of finance lease and service concession payments	Threshold is exceeded where the result of the Calculation is that interest cover is <4x
Metric E** Gross secured debt: Net assets	**For the first threshold test**: Consolidated secured bank loans and consolidated secured external borrowing (short term and long term) **PLUS** consolidated secured bank overdrafts **-----ALL DIVIDED BY-----** Consolidated net assets **PLUS** pension provisions **For the second threshold test**: **S2:** This test does not apply Total book value of assets against which consolidated secured external borrowing (short term and long term) is secured **-----ALL DIVIDED BY-----** Consolidated gross assets	Threshold is exceeded where: 1. total secured borrowings are greater than 10% of the employer's consolidated net assets calculated after excluding pension provisions; or 2. total secured borrowings are secured on assets the value of which exceed 10% of the employer's consolidated gross assets **S2:** 10% is replaced with 20%

* Note, for Monitoring Metrics A to C, loans from funding councils can be excluded where these amounts can be separately identified and evidenced as non-repayable.

** Employers and their subsidiaries should be considered. Secured debt includes cross-guarantees provided in respect of group entities on a secured basis.

APPENDIX 2 TO PART B – REQUIREMENTS: Example of the information required in support of an Employer's annual submission

	Calculation and data items	HESA and OfS data fields or other corresponding financial line items
Metric A* Gross debt: Net assets excluding pension provisions	Bank loans and external borrowing (short term and long term)	• Bank loans and external borrowing (creditors: amounts falling due within one year) • Bank loans and external borrowing (creditors: amounts falling due after one year)
	PLUS bank overdrafts	• Bank overdrafts (creditors: amounts falling due within one year)
	PLUS obligations under finance leases and service concessions (on balance sheet short and long term)	• Obligations under finance leases and service concessions (creditors: amounts falling due within one year) • Obligations under finance leases and service concessions (creditors: amounts falling due after one year) • Loans from funding councils (current liabilities) • Loans from funding councils (non-current liabilities)
	-----ALL DIVIDED BY-----	
	(Net assets **PLUS**	• Total net assets
	pension provisions)	• Pension provisions
Metric B* Gross debt: Total income	Bank loans and external borrowing (short term and long term)	• Bank loans and external borrowing (creditors: amounts falling due within one year) • Bank loans and external borrowing (creditors: amounts falling due after one year)
	PLUS bank overdrafts	• Bank overdrafts (creditors: amounts falling due within one year)
	PLUS obligations under finance leases and service concessions (on balance sheet short and long term)	• Obligations under finance leases and service concessions (creditors: amounts falling due within one year) • Obligations under finance leases and service concessions (creditors: amounts falling due after one year) • Loans from funding councils (current liabilities) • Loans from funding councils (non-current liabilities)
	-----ALL DIVIDED BY-----	
	Total income	• Total income
Metric C* Gross debt: Net cash flow from operations	Bank loans and external borrowing (short term and long term)	• Bank loans and external borrowing (creditors: amounts falling due within one year) • Bank loans and external borrowing (creditors: amounts falling due after one year)
	PLUS bank overdrafts	• Bank overdrafts (creditors: amounts falling due within one year)
	PLUS obligations under finance leases and service concessions (on balance sheet short and long term)	• Obligations under finance leases and service concessions (creditors: amounts falling due within one year) • Obligations under finance leases and service concessions (creditors: amounts falling due after one year) • Loans from funding councils (current liabilities) • Loans from funding councils (non-current liabilities)
	-----ALL DIVIDED BY-----	
	(Net cash flow from operations **PLUS**	• Net cash inflow/(outflow) from operating activities
	regular endowment income)	Regular endowment income is not a current HESA data field but it is an OfS data field.

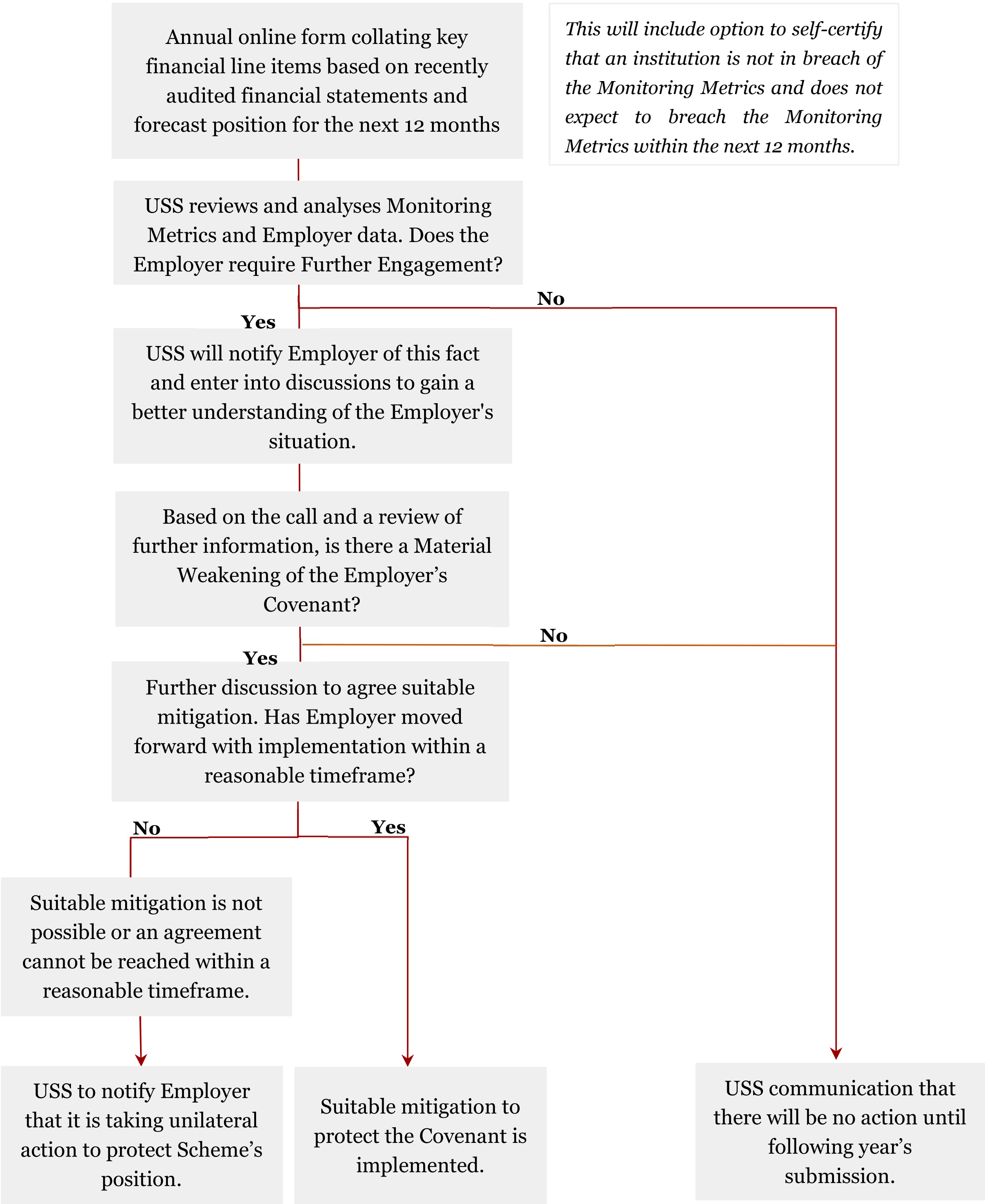
	Calculation and data items	HESA and OfS data fields or other corresponding financial line items
Metric D Interest Cover	Net cash inflow from operations	• Net cash inflow/(outflow) from operating activities
	PLUS regular endowment income	• Regular endowment income is not a current HESA data field but it is an OfS data field
	-----ALL DIVIDED BY-----	
	(Interest paid **PLUS**	• Interest paid
	interest element of finance lease and service concession payments)	• Interest element of finance lease and service concession payments
Metric E** Gross secured debt: Net assets/Gross Assets	For the first threshold test: Consolidated secured bank loans and consolidated secured external borrowing (short term and long term) **PLUS** consolidated secured bank overdrafts **-----ALL DIVIDED BY-----** (Consolidated net assets **PLUS** pension provisions)	• Total consolidated secured borrowings (including cross-guarantees provided to entities on a secured basis) • Total net assets • Pension provisions
	For the second threshold test: Total book value of assets against which consolidated secured external borrowing (short term and long term) is secured **-----ALL DIVIDED BY-----** Consolidated gross assets	• Total assets • Book value of assets against which debt is secured not available from HESA data – to be provided by employer

* Note, for Monitoring Metrics A to C, loans from funding councils can be excluded where these amounts can be separately identified and evidenced as non-repayable.
** Employers and their subsidiaries should be considered. Secured debt includes cross-guarantees provided in respect of group entities on a secured basis.

DEBT MONITORING FRAMEWORK

PART C – PROCESS FLOW CHARTS

APPENDIX 1 – PROCESS FOR COLLECTING AND REVIEWING DEBT MONITORING INFORMATION FROM EMPLOYERS



On an ad-hoc basis, after 1 August 2021 each Employer will be required to provide USS with information relating to a change in its debt position since its last annual submission that has resulted (or is expected to result) in any of Monitoring Metrics A to D being breached and information relating to its financial sustainability that has been submitted to a regulatory body.

APPENDIX 2 – PROCESS FOR SEEKING PARI PASSU SECURITY FROM EMPLOYERS

Employers and their subsidiaries should be considered. Secured debt includes cross-guarantees provided in respect of group entities on a secured basis.

If an Employer intends to grant security to a third party above the threshold level of Metric E, or to grant a floating charge, Employers to notify and enter into discussions with USS at least **12 weeks** before security is granted.

There may be exceptional circumstances that mean 12 weeks' notice cannot be given.
An example of exceptional circumstances would be if an Employer was in distress and required financial support to manage liquidity within less than 12 weeks. In such circumstances, the Employer should notify USS of its intention to take on new or additional secured debt, and/or grant security for existing unsecured debt, and/or enter into Quasi-Security as soon as discussions begin with the third party to whom security is being proposed.

Is there a carve out for this type/ quantum of debt?

Yes

No

Employer notifies the third party of its requirement to grant pari passu security to the Scheme and provides the Scheme with access to the third party to discuss.

The Employer will coordinate and oversee any information exchange required between prospective creditors and USS in relation to pari-passu security.

USS informs the Employer of the quantum of the *pari passu* security required as defined in paragraph 6.1 of the Requirements Document. Employer decides to grant security to a third party?

Yes

No

USS will enter into discussions with the Employer to try to agree suitable mitigation measures. Employer agrees to grant *pari passu* security to the Scheme?

No

Yes

USS to notify Employer that it is taking unilateral action to protect Scheme's position.

Security granted to the Scheme for the duration of security being granted to the third party.

USS communication that there will be no action until following year's submission.

USS will release its pari-passu security as soon as is reasonably practicable after security to the third party is released and USS is satisfied it is reasonable to do so.

DEBT MONITORING FRAMEWORK

PART D – WORKED EXAMPLES

1 Background

1.1 As outlined in the Policy Document, this Part D includes a number of illustrative Worked Examples to demonstrate how the Trustee expects the Framework to operate in practice. These examples reflect Scenario 3.

1.2 This includes some of the actions the Trustee could take to protect the strength of the Covenant, where an Employer has breached Monitoring Metrics per paragraph 4 of the Requirements Document and the Trustee considers, after further engagement, that this has led to a Material Weakening of the individual Employer's Covenant (which will be assessed taking into account TPR's guidance).

1.3 The examples are illustrative, but are not exhaustive, as the Employers vary in size, operating models and structures and therefore, debt arrangements are likely to vary between institutions. This means that the Trustee cannot set out, definitively, how it will act in all circumstances where an Employer breaches the Monitoring Metrics. The Trustee must retain its discretion to take such action to protect the Scheme's Covenant as it sees fit (taking into account the relevant Employer's particular circumstances and all powers available to the Trustee under the Scheme's Governing Documentation and applicable law and regulation).

2 Worked Examples - breaching Metrics A-D

Worked examples covering a number of potential scenarios are set out below.

2.1 Scenario 1

Employer A completes the annual online submission in 2021 and its financial position compares to the Monitoring Metrics as follows:

Monitoring Metrics (*calculations as per the Appendix to the Requirements Document)*	**Trigger threshold**	**Employer Metric result**	**Breach?**
A. Gross debt / Net assets excluding pension provisions	>50%	55%	Y
B. Gross debt / Total income	>50%	40%	N
C. Gross debt / Net cash flow from operations	>5x	4.7x	N
D. Interest cover	<4x	3x	Y
E. i. Consolidated total secured borrowings / Consolidated net assets (excluding pension provisions) OR	>10%	3%	N
E. ii. Total aggregate assets over which consolidated debt has security / Consolidated gross assets	>10%	2%	N

The Trustee reviews both the online submission and publicly available data and concludes:

- ➢ There is no material difference or inaccuracy between the data provided and the data per publicly available financial information; and
- ➢ Employer A has breached two Monitoring Metrics (A and D) and therefore has not triggered further engagement.

In July of the same year, Employer A notifies the Trustee that it is now planning to take out additional debt, which is expected to result in breach of Monitoring Metric B.

The Trustee requests, and reviews, the ad-hoc submission and publicly available data (if available) and concludes:

- ➢ Employer A is now in breach of three Monitoring Metrics (A, B and D).
- ➢ Employer A was in breach of two Monitoring Metrics in the previous year and therefore has not triggered further engagement. Note that if the employer was in breach of three metrics based on the previous year's annual submission, it would be considered that there had been breaches in two consecutive financial years.

Outcome: Trustee communication to Employer that there will be no action at this time.

2.2 Scenario 2

Employer B completes the annual online submission and its financial position compares to the Monitoring Metrics as follows:

Monitoring Metrics (*calculations as per the Appendix to the Requirements Document)*	**Trigger threshold**	**Employer Metric result**	**Breach?**
A. Gross debt / Net assets excluding pension provisions	>50%	55%	Y
B. Gross debt / Total income	>50%	65%	Y
C. Gross debt / Net cash flow from operations	>5x	6.7x	Y
D. Interest cover	<4x	3x	Y
E. i. Consolidated total secured borrowings / Consolidated net assets (excluding pension provisions) OR	>10%	3%	N
E. ii. Total aggregate assets over which consolidated debt has security / Consolidated gross assets	>10%	2%	N

The Trustee reviews both the online submission and publicly available data and concludes:

- Employer B has breached four Monitoring Metrics (A to D). After evaluation of the employer data the Trustee feels further engagement is warranted.

The Trustee contacts the Employer to notify that it has triggered further review, arranges a call, and requests additional information to assess the impact on Covenant e.g. business case for debt, 5 year business plan.

Based on the outcome of the call and the review of additional information, the Trustee concludes that there is no Material Weakening of the individual Employer’s Covenant (i.e. the Trustee does not consider that the Employer's ability to support the Scheme is detrimentally affected in a material way by the Employer's debt position). For example, the breach was as a result of the institution taking on additional debt to manage short term liquidity issues resulting from the impact of COVID-19 and management has taken appropriate actions to ensure that the Employer remains sustainable; management has clear plans to repay the debt; and ability to service debt is not impaired.

The Trustee does, however, request additional monitoring to make sure that the Employer's position does not continue to deteriorate.

Outcome: Trustee communication that there will be no further action at this time. However, the Trustee does request more regular reporting e.g. half - yearly submissions to monitor financial sustainability and may take action if it concludes there has been a Material Weakening in the Employer’s Covenant following a submission.

2.3 Scenario 3

Employer C completes the annual online submission and its results against the Monitoring Metrics are as follows:

Monitoring Metrics (*calculations as per the Appendix to the Requirements Document)*	**Trigger threshold**	**Employer Metric result in prior year**	**Breach?**	**Employer Metric result in current year**	**Breach?**
A. Gross debt / Net assets excluding pension provisions	>50%	40%	N	65%	Y
B. Gross debt / Total income	>50%	65%	Y	70%	Y
C. Gross debt / Net cash flow from operations	>5x	5.5x	Y	2.4x	N
D. Interest cover	<4x	3x	Y	2.5x	Y
E. i. Consolidated total secured borrowings / Consolidated net assets (excluding pension provisions) OR	>10%	3%	N	3%	N
E. ii. Total aggregate assets over which consolidated debt has security / Consolidated gross assets	>10%	2%	N	2%	N

The Trustee reviews the online submission and publicly available data and concludes:

- Employer C has breached three metrics in two consecutive years. After evaluation of the employer data the Trustee feels further engagement is warranted.

The Trustee contacts the Employer to notify that it has triggered further review, arranges a call, and requests additional information to assess the impact on Covenant e.g. business case for debt, 5 year business plan.

The Trustee reviews additional information and concludes that there is a Material Weakening of the individual Employer's Covenant. For example, the Trustee is concerned about the serviceability of the debt and financial strength of the institution.

The Trustee and Employer C discuss possible mitigation.

Example mitigating actions that could be agreed between the Trustee and the Employer include:

- Bespoke monitoring of Employer;
- An agreement that an Employer's gross debt will not increase at a faster rate than the growth in net assets or income for a period of time;
- Unilateral action such as additional contributions or accelerated payment of existing contributions due from the Employer;
- The granting of security over assets in favour of the Scheme;
  Notifying TPR of concerns.

*[**PLEASE NOTE**: As mentioned at paragraph 1.2 of Part A and repeated at paragraph 1.3 of this Part D, the Worked Examples presented are illustrative and are not intended to cover all possible scenarios. Similarly, the mitigating actions set out above are not intended to be exhaustive. Each breach of the Framework will be considered on a case-by-case basis, and the actions that the Trustee will seek to take (if any) will be specific to the institution's circumstances. Any actions taken will be to protect the Scheme's Covenant]*

Outcome: Suitable mitigation to protect the Covenant is agreed and implemented within a reasonable timeframe.

2.4 Scenario 4

Employer D completes the annual online submission and its results against the Monitoring Metrics are as follows:

Monitoring Metrics (*calculations as per the Appendix to the Requirements Document)*	**Trigger threshold**	**Employer Metric result in prior year**	**Breach?**	**Employer Metric result in current year**	**Breach?**
A. Gross debt / Net assets excluding pension provisions	>50%	45%	N	60%	Y
B. Gross debt / Total income	>50%	55%	Y	70%	Y
C. Gross debt / Net cash flow from operations	>5x	6.5x	Y	3.5x	N
D. Interest cover	<4x	3x	Y	3.5x	Y
E. i. Consolidated total secured borrowings / Consolidated net assets (excluding pension provisions) OR	>10%	3%	N	3%	N
E. ii. Total aggregate assets over which consolidated debt has security / Consolidated gross assets	>10%	2%	N	2%	N

As with Scenario 3, Employer D has breached three Metrics in two consecutive years and, after review, triggered further engagement. Following discussion and a review of further information, the Trustee seeks mitigation, but suitable mitigation is not possible or an agreement cannot be reached between the Employer and the Trustee within a reasonable timeframe.

Outcome: Trustee to notify the Employer that it is taking unilateral action to protect the Scheme's position. See paragraph 5 of the Policy Document for examples of the unilateral action that the Trustee might potentially take.

3 Worked Examples - breaching Metric E

3.1 Scenario 5

Employer E plans to take out debt of £5m that will be secured on a fixed basis over a lecture hall with an asset value of £7m and notifies the Trustee, reporting the following information:

Key financial line items	**£'m**	
Consolidated gross unsecured debt	240	
Consolidated gross assets	800	
Consolidated net assets excluding pension provisions	500	
Quantum of new debt granted security	5	
Type of security	Fixed charge over a lecture hall with a value of £7m	
Secured debt metric (*calculations as per the Appendix to the Requirements Document)*	**Trigger thresholds**	**Employer Metric result**
E. i. Consolidated total secured borrowings / Consolidated net assets (excluding pension provisions) OR	>10%	1.0%
E. ii. Total aggregate assets over which consolidated debt has security / Consolidated gross assets	>10%	0.9%
Exemption: Irrespective of whether an Employer breaches Metric E, total aggregate security over specific assets is exempt if the total aggregate value of such assets is less than the higher of: ➢ 2% of net assets excluding pension provisions; and ➢ £0.5m.	Higher of: <2% of adjusted consolidated net assets and £0.5m	1.4%

The Trustee reviews the information provided and publicly available data and concludes:

- New secured debt is below de minimis levels:
  - Total aggregate value of specific assets with security (£7m) is less than the higher of:
    - 2% of consolidated net assets excluding pension provisions (£10m); and
    - £0.5m.

Outcome: Trustee communication that there will be no further action at this time.

3.2 Scenario 6

Employer F notifies the Trustee that it is planning to take out debt of £75m to be secured on a fixed basis over assets worth £100m. It notifies the Trustee more than 12 weeks before it plans to grant security to the lender. Employer F reports the following information:

Key financial line items	**£'m**	
Consolidated gross unsecured debt	240	
Consolidated gross assets	800	
Consolidated net assets excluding pension provisions	500	
Quantum of new debt to be granted security	75	
Type of security	Fixed charge over assets with a value of £100m	
Employer Section 75 Deficit	£300m	
Employer Technical Provision Deficit *(calculated based on the results of the Scheme's last triennial actuarial valuation)*	£90m	
Secured debt metric (*calculations as per the Appendix to the Requirements Document)*	**Trigger thresholds**	**Employer Metric result**
E. i. Consolidated total secured borrowings / Consolidated net assets (excluding pension provisions) OR	>10%	15%
E ii. Total aggregate assets over which consolidated debt has security / Consolidated gross assets	>10%	12.5%

The Trustee reviews the online submission and publicly available data and concludes:

- ➢ Employer F breaches Metric E because:

  - ○ Consolidated total secured borrowings / Consolidated net assets (excluding pension provisions): £75m/£500m or 15%

  - ○ Total aggregate assets over which consolidated debt has security / Consolidated gross assets: £100m/£800m or 12.5%

The Trustee asks the Employer to provide *pari passu* security over the same or similar assets with a value acceptable to the Trustee (as pari passu over the same assets would not be possible in this scenario given the value is insufficient).

The Trustee asks for pari passu security to the amount of £90m**.** i.e:

a) the amount of the liabilities to the Trustee to be secured will be an amount equal to the Employer's share of the Technical Provisions Deficit (*calculated based on the results of the Scheme's last triennial actuarial valuation)* (£90m) or, if higher, an amount equal to the lower of:
    i. the quantum of new or additional and/or existing secured borrowings on a £ for £ basis, but excluding the amount of any borrowings already secured as at 1 August 2021 (£75m); and
    ii. the Employer’s share of the Section 75 Deficit (£300m).

The Employer decides not to grant security to the third party.

Outcome: Trustee communication that there will be no further action at this time.

3.3 Scenario 7

Employer G has £240m of historical debt on an unsecured basis which matures. The bank requires security to refinance the debt. The security is in the form of a floating charge over all assets of the institution. Employer G notifies the Trustee of this more than 12 weeks before it plans to grants security to the bank and reports the following information:

Key financial line items	**£'m**
Consolidated gross unsecured borrowings	240
Consolidated gross assets	800
Consolidated net assets excluding pension provisions	500
Type of security	Floating Charge Proposal over all unsecured assets
Employer Section 75 Deficit	750
Employer Technical Provision Deficit *(calculated based on the results of the Scheme's last triennial actuarial valuation)*	230

The Trustee reviews the data provided and publicly available data and concludes:

➢ Secured borrowings meet definition of a Floating Charge Proposal and therefore triggers the pari passu requirement.

The Trustee asks the Employer to provide a similar *pari passu* floating charge in the amount of **£240m**. i.e. the lower of the quantum of total secured borrowings (£240m); and Employer's estimated share of the Section 75 Deficit (£750m), as this is higher than its share of the Technical Provisions Deficit *(calculated based on the results of the Scheme's last triennial actuarial valuation)* (£230m) in this scenario.

Employer decides not to grant security to the third party and is able to seek alternative arrangements with another provider.

Outcome: Trustee communication that there will be no further action at this time.

3.4 Scenarios 8 and 9

As with Scenario 7, but:

Scenario	**Employer decides to grant security to:**	**Outcome**
8	• Third party; and • *Pari passu* security to the Scheme	**Pari passu security granted to the Scheme in the form of a floating charge for the duration of security being granted to the third party.**
9	• Third party; but not • *Pari passu* security to the Scheme	**Trustee to notify the Employer that it is taking unilateral action to protect Scheme's position. See paragraph 5 of the Policy Document for examples of the unilateral action that the Trustee might potentially take.**

4 Worked Examples - covenant-enhancing investments

4.1 **Employer H** enters into a public private partnership with a private construction firm to build a new campus, Campus X with a total cost of £150m.

This campus is expected to be financed with new secured debt over Campus X with:

- Private construction firm contributing 95% of the capital in the form of debt; and
- Employer H contributing 5% of capital in the form of a cash equity injection.

Certain debt instruments (such as this) will be considered by the Trustee on a case by case basis under paragraph 4.4(c) of the Requirements Document. As such, the Trustee's decisions will vary according to the particular circumstances.

Employer informs the Trustee of the initiative and the Trustee decides that it will not seek mitigation because:

- Campus X is expected to generate incremental income as the asset wouldn't be built without the provision of debt.
- No existing assets in the Employer will be secured, and no tangible assets will be contributed to the public private partnership.
- As such, this is not considered to Materially Weaken the Employer's Covenant.

4.2 **Employer I** intends to take out a secured loan of £25m to refurbish its student accommodation. Security has already been granted to existing lenders in excess of the thresholds in Metric E.

The employer has a s75 debt of £75m.

This arrangement may be considered by the Trustee under paragraph 4.4(c) of the Requirements Document. As such, the Trustee's decisions will vary according to the particular circumstances.

The employer informs the Trustee of the initiative and the Trustee decides that, in the absence of further mitigating information, the purpose of the proposed borrowing is in the nature of maintenance expenditure and does not create any new asset, that pari passu security should be provided to the Trustee.

4.3 **Employer J** intends to take out a loan of £50m to develop a new management school, with the funding secured on its new buildings. This initiative is anticipated to create new teaching revenues, satisfying a demand for business education and securing a significant endowment from a benefactor. A secured loan is the most cost-effective available funding source to complete the project.

This arrangement may be considered by the Trustee under paragraph 4.4(c) of the Requirements Document. As such, the Trustee's decisions will vary according to the particular circumstances.

The employer informs the Trustee of this initiative. The Trustee indicates that the initiative is potentially exempt from the pari passu requirements and asks to review the business case and the financial projections.

DEBT MONITORING FRAMEWORK

PART E – DEFINED TERMS

Covenant	Has the meaning given in paragraph 2.1 of the Policy Document.
Deed of Accession	The deed executed when an Employer joins the Scheme recording the terms on which the Employer is to participate in the Scheme.
Employer	Has the meaning given in the Scheme's Governing Documentation (and Employers shall be interpreted accordingly).
Floating Charge Proposal	Has the meaning given in paragraph 3.4(c)(i)(B) of the Requirements Document.
Framework	Means the framework adopted by the Trustee for monitoring levels of employer debt and documented in the Requirements Document.
Fund	Has the meaning given in the Scheme's Governing Documentation.
Glossary of Terms	Means this document.
Governing Documentation	Means, from time to time, the Scheme Rules, the Employers' Deeds of Accession, and any other document governing the operation of the Scheme.
HESA	Means the Higher Education Statistics Agency, the designated data body for the United Kingdom with a statutory role to report this data to Higher Education funding and regulatory bodies.
Material Weakening	There will be a material weakening in an Employer's Covenant where the Trustee considers (acting reasonably) that the Employer's ability to support its liabilities to the Scheme is detrimentally affected in a material way by the Employer's debt position (which will be assessed taking into account TPR guidance from time to time).
Monitoring Metrics	Means monitoring metrics A to E set out in the table contained at Appendix 1 to the Requirements Document. A Monitoring Metric will be breached where the 'Threshold' for that Monitoring Metric is exceeded.
Policy Document	Means the part of this document headed "Debt Monitoring Framework: Part A - Policy", as amended from time to time.

Quasi-Security	Means an arrangement or transaction of the types described below: (i) the sale, transfer or other disposal of any assets on terms whereby they are or may be leased to or re-acquired by the Employer or any other member of the Employer's group; (ii) the sale, transfer or other disposal of any of the Employer's receivables on recourse terms; (iii) the entry into any arrangement under which money or the benefit of a bank or other account may be applied, set-off or made subject to a combination of accounts; or (iv) the entry into any other preferential arrangement having a similar effect, in circumstances where the arrangement or transaction is entered into primarily as a method of raising finance or of financing the acquisition of an asset.
Quasi-Security Proposal	Has the meaning given in paragraph 3.4(c)(ii) of the Requirements Document.
Requirements Document	Means the part of this document headed "Debt Monitoring Framework: Part B - Requirements" (including all Appendices), as amended from time to time.
Schedule of Contributions	The formal document which sets out the level, timing and any conditions relating to contributions to the Scheme payable by members and Employers of the Scheme and prepared in accordance with section 227 of the Pensions Act 2004, as amended from time to time.
Scheme	Means the Universities Superannuation Scheme.
Scheme Administration Regulations	Has the meaning given in paragraph 2.1 of the Requirements Document.
Scheme Rules	Means the Rules of the Scheme dated 19 November 2015, as amended from time to time.
Section 75 Deficit	The amount, over and above the value of the Scheme's assets, which the Scheme actuary estimates would be required to meet specified estimated expenses and fully buy out the Scheme benefits with annuities from a regulated insurer, as determined in accordance with Section 75 or 75A of the Pensions Act 1995 and accompanying regulations, both as amended from time to time.
Self-Certification	Has the meaning given in paragraph 3.3 of the Requirements Document.
Technical Provisions	Under the scheme funding provisions of the Pensions Act 2004, the amount required, on an actuarial calculation (using prudent methods

	and assumptions determined by the Trustee), to make provision for the Scheme's liabilities.
Technical Provisions Deficit	Means the difference between an Employer’s Technical Provisions and the Scheme assets attributable to that Employer.
TPR	Means the Pensions Regulator.
Trigger Event	Has the meaning given in paragraph 4.2 of the Requirements Document.
Trustee	Means Universities Superannuation Scheme Limited.
Worked Examples	Has the meaning given in paragraph 1.5 of the Policy Document.