



**Open University Branch of the UCU
and Open University Branch of
UNISON**

Room 015 and 014, Wilson C Block
The Open University
Walton Hall
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Dear Professor Kellett

We are writing on behalf of UNISON and UCU at the Open University regarding the unresolved situation with USS for which we requested a meeting in early January.

As you know, USS is currently consulting employers on its 2018 valuation. This valuation is intended to replace, as soon as possible, USS's recently filed 2017 valuation, which will impose large, escalating shared contribution increases on members and employers from April 2019 onwards.

For this 2018 valuation, USS has been able to take into account the proposals made by the first [report](#) of the UCU-UUK Joint Expert Panel (JEP). The JEP's proposals were intended as modest, short-term measures for producing a valuation that reflected the true health of the Scheme and maintaining contribution rates at appropriate levels. Given more time, the JEP would have recommended much more sweeping changes. It appears to be preparing to do so in its forthcoming second report.

Recently, we learned that USS has calculated that if all of the first report's proposals were applied to the 2018 valuation, the Scheme would no longer be in deficit and the total contribution rate required of employers and members would be 25.5% of salary: in other words, less than the 26% we are paying now. **Moreover, both UCU and UUK's actuarial advisers (First Actuarial and Aon) have indicated that they would regard such a valuation as prudent and in conformity with current regulations.**

However, USS itself does not. In its [valuation document](#) of 2nd January USS has decided to reject two of the JEP's proposals out of hand, and only to accept certain others if employers (and possibly members) promise to provide 'contingent support' if the Scheme's funding position worsens in unspecified ways between valuations. USS has stated that the trigger contributions could equate to 4%.

Having followed the dispute since the JEP published its first report, we remain far from convinced that employers are serious about listening to the advice of the JEP or implementing its proposals. The majority of employers, including the Open University, have indicated a willingness to accept the JEP's proposals in principle. However, employers as a group still have not acknowledged the wide range of failings that the JEP identified in USS's governance, consultation processes, actuarial methodology, and interactions with The Pensions Regulator (TPR). Even more importantly, since USS publicised its unwillingness to accept the JEP's proposals in full, employers have displayed very little appetite for challenging the Scheme on the specific terms of its rejection of the JEP.

This raises a further question: if employers fail to put any pressure on USS to accept the JEP's first report, what will happen when the JEP publishes its second report? In agreeing to establish the JEP in

exchange for a suspension of strike action, and negotiating its terms of reference with UCU, employers agreed to commission the JEP to consider not only this valuation but also the longer-term future of the Scheme. If, as seems likely, the JEP's second report urges even more significant changes to USS – on the level of governance and member representation, for example, or the use of gilts-based targets to drive the investment strategy – how do employers intend to press USS to accept them? And how will members be able to trust employers to do so if they've already refused to push for the modest changes proposed in the first report?

In other words, the present consultation offers employers a crucial opportunity to show that they are serious about holding up their end of the bargain which they entered into in April 2018, not only in the shorter but also in the longer term. Fortunately, it is not too late to challenge USS's 2018 valuation plans.

There are a number of measures which employers could have taken, and are still able to take, in pursuit of a 2018 valuation that reflects the true health of the Scheme. We list these measures below in the hope that the University's governing body and other relevant committee(s) will take them up before finalising the University's response to USS's consultation.

Employers should:

1. Ask their actuarial advisers Aon to comment publicly on the hugely important finding by Dr Sam Marsh of the University of Sheffield, based on cashflow and asset data, that USS could comfortably achieve a position within £10bn of self-sufficiency within its 20-year covenant horizon by keeping its current investment strategy and contribution rates: in other words, without 'de-risking' and without requiring large contribution increases, as USS had claimed. UCU has already asked First Actuarial to comment on this finding.
2. Ask USS to provide the equivalent data for the 2018 valuation, which would confirm the long-term health of the Scheme. So far only UCU has asked for it via the Joint Negotiating Committee (JNC), whereas employers apparently have not.
3. Ask USS why it continues to use Test 1 to drive its investment strategy, when even TPR is willing (according to its 11 December 2018 [letter](#) to USS) to let the Scheme stop doing so. Please see this recent [survey](#) of critiques of Test 1.
4. Ask USS to explain why it is no longer willing to delay the de-risking imposed by Test 1, as it proposed to do in September 2017 – a proposal which the JEP said USS should revisit. USS's 2018 valuation document does not even try to explain why the Scheme will not do this anymore.
5. Ask USS to challenge TPR in the areas where we know TPR is wrong: first, covenant strength, where TPR is contradicted by detailed reviews by two auditors and the JEP; and secondly, projections of Scheme vs. sector growth, where the JEP has disproven TPR's claims using USS's own data (see Annex 7 of the JEP [report](#)). Also, challenge TPR on the extent to which they are exceeding their statutory remit by getting involved in the management of scheme they regulate.
6. Ask USS to substantiate its completely un-evidenced claim in the new valuation document that TPR won't allow the Scheme to implement all of the JEP proposals because the resulting technical provisions discount rate would be too high compared with the going rate for gilts.
7. Instruct the employer-appointed Trustee board members to accept all of the JEP proposals.

8. Reject USS's recent and unorthodox request to UUK to propose the conditions for and extent of 'trigger' contributions on the grounds that USS have provided no data to justify the need for these. The Scheme came through the 2008-09 financial crisis without any emergency rise in contributions. (See USS's [summary](#) of the size of the DB fund 2008-2018).
9. If USS continues to resist on all these fronts, consider passing a vote of no confidence in the USS Executive and even, if necessary, the USS Trustee, via the JNC and/or the Board of UUK.
10. Consider taking USS to court, as UUK [threatened](#) to do when USS, in September 2017, suggested 'trigger' contributions along very similar lines to the ones they are proposing now.

The Open University is an unusual employer in that all grades and categories of staff are eligible to join USS and the stress caused by the current situation, and fear of increased contributions, is palpable. It is UCU's national policy not to accept that members' contributions need to be increased or their benefits cut. This policy represents what university staff deserve for their hard work in making the Higher Education sector so extraordinarily successful. It also has the advantage of being in line with actuarial positions, acknowledged by the broad expert consensus of the JEP, First Actuarial, Aon, and various other parties. Much of what we have said in this letter echoes the [briefing materials](#) prepared by UCU's newly elected National Dispute Committee. That committee, and our members, take a dim view of USS's response to the JEP and of the notion that employers cannot do anything to influence USS's actions. If employers refuse to push USS to accept the truth, we will not be at all surprised to see the unions initiate another ballot for strike action in pre-92 branches.

We would be grateful if you could indicate the university's position on the above proposals. We think it is in our shared interests to cooperate as closely as possible while there is still time to influence USS.

Yours sincerely



Caitlin Adams and Kym Gosling

OU UCU Branch President and UNISON Branch Secretary

Website links:

<http://www.ussjep.org.uk/report-of-the-joint-expert-panel/>

<https://www.ussemployers.org.uk/sites/default/files/field/attachemnt/2018-technical-provisions-consultation.pdf>

https://www.ucu.org.uk/media/9999/TPR-risks-letter-to-the-USS-Trustee-Dec-18/pdf/uss_tpr_Mike_Birch_to_Sir_David_Eastwood_-_11_December_2018.pdf

<https://medium.com/ussbriefs/why-test-1-must-be-dropped-a-critique-of-its-design-and-implementation-1358c612a2a4>

<http://www.ussjep.org.uk/report-of-the-joint-expert-panel/>

<https://www.uss.co.uk/how-uss-invests/the-fund/performance>

<https://academicfreedom.watch/sites/default/files/2018-10/UUK%20Response%20to%20USS-S.PDF>

https://www.ucu.org.uk/media/10076/USS-NDC-branch-employer-lobby-briefing-Jan-19/pdf/NDC_Briefing_Document_on_USS_31January2019.pdf