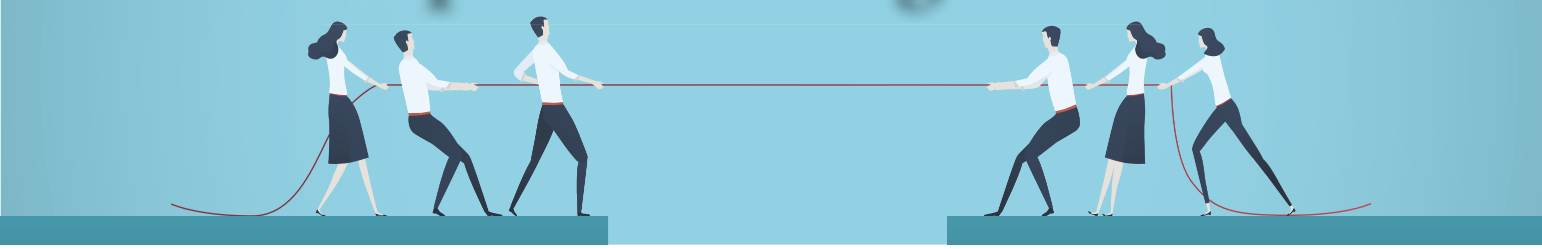
A pensions tug of war



As union members make their voices heard in ballot action, Sophie Smith looks at the tensions surrounding the Universities Superannuation Scheme over the past year

In the latest update to the ongoing saga around the Universities Superannuation Scheme (USS), University and College Union (UCU) members have supported the call for strike action over proposed changes to the scheme, with 76 per cent voting to back strike action in recent ballots.

A total of 68 universities were balloted on pension concerns over a three-week period, with a further 88 per cent voting in favour of action short of a strike. The overall turnout for the ballot process was 53 per cent, higher than the legally required threshold of 50 per cent.

The result has been highlighted to UCU as a "clear mandate" for strike action and demonstration of the staff anger over the proposed changes to the scheme.

However, Universities UK (UUK), on behalf of USS Employers, pointed out that union members voting 'yes' to strike action at eligible branches account for less than 7 per cent of the scheme's total active membership, suggesting that support for industrial action is "limited".

A UUK spokesperson, on behalf of USS employers, said: "While it is disappointing to see some UCU members think industrial action over pensions is justified, the union has failed to secure a mandate for industrial action in 31 of the 68 institutions where ballots took place on USS, meaning fewer branches have reached the threshold than in previous ballots. In most places where the threshold was reached, it was the votes of those saying "no" to action that carried the numbers over the 50 per cent legal threshold. Discussions with UCU will continue, and the consultation is currently taking place with the scheme's wider membership. The majority of university staff are not members of UCU."

Next steps for the union will be agreed at a meeting of UCU's higher education committee on 12 November, with key decisions to include whether and when to re-ballot some branches.

UCU general secretary, Jo Grady, said: "In a ballot window of just three weeks our members have made it abundantly clear that they will not accept these vindictive attacks on their retirement.

"It is now in the gift of employers to avoid strike action, which is the outcome staff want as well. All management need to do is withdraw their needless cuts and return to negotiations. If they fail to do so, any disruption will be entirely their responsibility."

Commenting in response, however, a USS spokesperson argued that the "fundamental truth" is that the price of promising a set, inflation-protected income for life in retirement is "much more expensive today than in the past".

Growing tensions

Indeed, affordability was a key concern after the scheme provided an update on its 2020 valuation in March 2021, which suggested that pension contributions may need to increase to as much as 56.2 per cent of payroll in an effort to plug the, at the time, £17.9 billion deficit.

UUK subsequently proposed a number of changes to the scheme, including reducing the salary cap from £60,000 a year to £40,000 a year, capping indexation at 2.5 per cent a year and reducing members' pension accrual rate from 1/75th of salary to 1/85th of salary, in an effort to avoid "unaffordable contribution" levels.

These plans were not universally welcomed, however, as a modellor from the UCU suggested that members could face a 35 per cent DB cut under the proposals, with the union warning that strike action was "inevitable" after the proposals progressed to a member consultation.

UCU general secretary, Jo Grady, argued that the plans would "reduce member benefits, discourage low paid and insecurely employed staff from joining USS, and threaten the viability of the scheme as a whole".

"Employers have failed to support alternative compromise proposals put forward by UCU, drawn up under the constraints of a flawed 2020 valuation of the scheme. UCU's proposals were far superior to those of UUK, delivering higher benefits and reducing contributions for staff," she said.

USS Employers has disputed this, however, stating that it did not receive an alternative formal proposal from UCU for decision by the JNC and that it had "repeatedly said to UCU during the JNC process that UUK would be willing to put any UCU suggestions to employers", an offer which still stands.

In addition to this, USS Employers spokesperson said that UCU did not ask for a one-month delay to the JNC timetable as claimed, explaining that given the lack of a formal UCU proposal, it was not apparent that any further time would be productive.

UUK also argued that UCU's estimation of a 35 per cent reduction under the proposals was "misleading", with previous figures from the USS trustee suggesting that the proposed changes could reduce the amount of pension members receive at retirement by around 10-18 per cent, or 7-15 per cent when state pension is included.

UUK's spokesperson said: "If no changes are made, USS will implement unaffordable contribution rises from April 2022, escalating every six months and reaching 18.8 per cent for members and 38.2 per cent for employers by 2025."

Increases are not only a concern for members though, as USS Employers warned that the rising contributions could have "huge implications" for the budgets of sponsoring employers.

It estimated that the April 2022 contribution increases alone would cost employers an additional £206 million per year, with the costs to then escalate higher every six months from October 2022.

This is despite employers having agreed to give even stronger backing to the scheme, estimated at £1.3 billion each year, and an offer of enhanced covenant support under the changes that would see employers paying in more than two and half times the average contribution rate for FTSE 100 companies.

USS Employers also warned that "many" of the 340 sponsoring employers are small charities, such as the Ewing Foundation, whose chief executive, Sarah Armstrong, stressed that "it's so important that smaller organisations are considered in discussions" around the valuation.

Losing patience?

Individual members are increasingly making their voice heard on USS issues, with two university academics having now issued proceedings in the High Court against Universities Superannuation Scheme (USS) directors regarding concerns about the scheme's 2020 valuation process.

The legal action relates to four key claims, including concerns over the date of the 2020 pension scheme valuation, as it argues that the valuation of the pension amid a stock market crash, and its methodology, was a "breach of duty" and "at least a misuse of directors' powers". The claimants have also argued that the proposed cuts to the USS amount to discrimination, as they hit women, ethnic minorities and young people the most.

In addition to this, they alleged that the directors of USS have driven a super-inflation in asset manager and total operating costs in a way that "serves themselves, not the company". Climate worries have also been flagged, as the claimants argued that failing to divest fossil fuels has caused, and will continue to cause "significant financial detriment", and is against the interests of the beneficiaries.

The claims, which were brought about by Bristol UCU, Dr Neil Davies, and KCL UCU, Dr Ewan McGaughey, will now be reviewed by the High Court to decide whether to grant the applicants permission to proceed to a trial.

Commenting in an article on the ongoing legal action, a USS spokesperson stated: "Nothing in the legal papers served on the trustee or otherwise justifies such a step, so we are comfortable that the challenge – whether in respect of the valuation, expenses or investment – has absolutely no merit.

"In the interests of USS members, the trustee will ask the High Court to refuse permission and thus avoid wasted costs for members and the scheme."

Pressing pause

In addition to the potential strike action, UCU has raised concerns over the valuation process itself, calling on USS trustees to pause the 2020 valuation process until a resolution can be agreed or there has been an application to the High Court to review the USS's decisions.

In a letter to USS chief executive, Bill Galvin, UCU general secretary, Jo Grady, raised concerns that the USS may have breached its own rules in a way that "materially impacted the ability of employers and members to negotiate an acceptable outcome". The concerns were based on legal advice provided to UCU, which suggested that there were "serious grounds" for questioning the rationality and reasonableness of the decision-making in relation to the 2020 valuation.

"The consequential changes in the scheme that are currently proposed are particularly momentous and, in counsel's view, there can be no doubt that they justify an application to the court for directions," the letter stated.

In particular, UCU argued that USS failed to provide a formal determination on actuarial advice and, following an actuarial investigation, that an increase in the aggregate contribution rate is required. It also pointed out that the scheme provided three different potential increases to the aggregate contribution rate, rather than a single figure.

The union argued this was "more than just a technicality, based on a semantic analysis of the rule, because of its impact on the JNC decision-making process".

Commenting in response, a USS spokesperson said: "We have received a letter from UCU suggesting the trustee elects to apply to the court for directions in relation to the 2020 valuation.

"The letter appears to contain some fundamental misunderstandings by UCU of the relevant documentation and we will be seeking a meeting with them to clarify and discuss the points raised."

Written by Sophie Smith