ORGANISING AROUND PENSIONS IN HIGHER EDUCATION

UNISON
Higher Education

Contents

Organising around pensions in higher education

The pension entitlements of UNISON members working in Higher Education (HE) are under continuing attack. This brief guide describes how UNISON can organise and campaign to defend and improve our pensions.

The pensions landscape in HE

It is useful to differentiate between pre and post 92 universities[1] as their different history and institutional status has an ongoing effect on staff pensions. The dynamics of the attacks on members' pensions are different in pre and post 92 institutions, and this necessarily affects UNISON's response. The most common pension arrangements for professional services staff and academic staff in each type of institution are presented in Table 1 (below).

Table 1: The most common pension arrangements in Higher Education

	Pre 92 institutions	Post 92 institutions
Professional services staff	Locally administered scheme (often a self administered trust (SAT))	Local Government Pension Scheme (LGPS)
Academic staff	Universities Superannuation Scheme (USS)	Teachers' Pension Scheme (TPS)

Notes: Adapted from EPFHE 2017, p. 40. The table presents the most common pension arrangements which necessarily involves generalisation. There are important exceptions. For example, some professional services staff are in the USS.

Locally administered schemes

In many pre 92 institutions, UNISON branches have been fighting against attacks on locally administered schemes. Universities have sought to make changes to local schemes that lower employer costs and liabilities, while worsening the future benefits and accessibility of schemes.

Locally administered pension schemes in HE now vary considerably. A key difference is whether schemes are defined benefit (DB) or defined contribution (DC). DB schemes provide more predictable and secure benefits for members.

One of the core differences between these two types of pensions is where the risk is placed. In a DB scheme, it is the responsibility of the employer to manage the fund and the employer is liable for any deficit in the fund and required to ensure that there is enough money to pay the defined benefit at retirement.

With a DC scheme the employer is not responsible for the investment risk. This makes it difficult for members of the scheme to plan for retirement, as there is no guarantee that the employee will get sufficient return on their investment into the scheme.

Here are some examples of the different locally administered pension schemes available to professional services staff in HE:

- The University of Reading has had a DC scheme for professional services staff since 2011.
- The University of Liverpool continues to have a DB scheme for professional services staff. In 2011, it changed from being calculated on a final salary basis to a CARE (Career Average Revalued Earnings) scheme. Pension benefits in a CARE scheme are based on earnings right across a career, usually linked to inflation.
- SAUL (Superannuation Arrangements of the University of London) covers pre 92 universities in London and parts of the South East. Since April 2023, SAUL has offered

1 Post 92 universities are institutions that entered the university sector under the Further and Higher Education Act 1992. They include former polytechnics, colleges and institutes of higher education, and other higher education corporations. Pre 92 institutions had university status prior to the 1992 Act.

new starters a DC scheme for their first three years of employment, before giving the option of moving to the DB scheme.

In 2017, 32 universities ran their own self administered trust (SAT). A review of 29 SATs in 2016 found that it was more common for new starters to be offered a DC pension (47%) than a DB pension (36%) (EPFHE 2017, p. 43). UNISON sent a freedom of information request to all HE institutions in 2023 about their current pension provision. The results of this will give us up-to-date information to help guide our organising and campaigning strategy and targets in HE.

Employers moving professional services staff out of the LGPS

In post 92 institutions, there is not the same history of employers having locally administered schemes. Employers have had less opportunity to reform or worsen members' pension benefits. The attack on professional services staff pensions here has taken a different form, with universities seeking to move new, and sometimes existing, staff out of coverage of the local government pension scheme (LGPS).

The LGPS is a statutory DB scheme and provides very good and predictable retirement incomes. Post 92 universities and further education colleges participate in the LGPS as 'scheduled bodies'. They have to provide LGPS membership for their employees.

The university employers (UCEA) lobbied government to remove the requirement for post 92 HE institutions to offer professional services staff membership of the LGPS. The Government held a consultation on this matter in 2019, but the plans were dropped after active UNISON opposition (UNISON, 2019).

To try to get around this requirement to provide the LGPS for employees, some post 92 universities have created a separate 'wholly owned subsidiary' (WOS) to employ professional services staff so that they can be offered a DC scheme rather than the LGPS.

UNISON's Bargaining Support Group (2023) has produced a detailed guide to assist branches who face WOS proposals. The guide also details how to protect terms and conditions where a WOS goes ahead and how to return a WOS back in-house.

Professional services staff in the USS

In many universities, higher banded professional services staff are offered membership of the USS. In a few universities (the Open University, the University of Stirling and Trinity Laban), staff in *all* professional services roles are offered membership of the USS pension scheme rather than the LGPS or a SAT. The USS has been worsened in recent years through changes in accrual rates and a change to a hybrid scheme, where members with pensionable pay above a set level accrue benefits in a DC scheme for that portion of income. Recently, an improved financial position for the scheme led to the proposed reversal of some of the negative changes for members. The implementation of this is dependent on the next valuation of the scheme and a consultation with USS members.

Responding to an attack on pensions

An employer has a duty to consult before making a 'listed change' to a pension scheme. The duty applies in the scenarios that our members have commonly faced in pre 92 universities, including when the employer proposes to:

— Close a scheme to new members
— Close a scheme to benefit accrual for existing members
— Worsen the rules of the scheme for members through
  - Increasing the normal pension age
  - Increasing member contributions
  - Changing future benefit accrual (or build up)
  - Changing the calculation of pensionable earnings

Where a 'listed change' such as those set out above is proposed by the employer, they must consult members and prospective members of the scheme, or their trade union representatives, for a minimum of 60 days. The consultation must be genuine and meaningful. Documents should be clear that the outcome is not pre-determined.

The duty to consult opens up an opportunity for UNISON to negotiate, but also to organise and campaign in opposition to negative changes to members' pension provision.

The Pensions Unit can help to produce a UNISON consultation response that will include arguments why our members' pensions should be retained and protected, but these arguments will be much more persuasive if the employer knows the members are engaged in the issue. The consultation response will be much more powerful if it reflects and incorporates the views of members. It will also be harder to ignore if it is presented in a high-profile way that shows the collective strength of the union.

Table 2 below provides an example campaign plan for a 60-day consultation period using UNISON's 'five phases' methodology.

Table 2: Example Campaign Plan for 60 Day Consultation Period on Pension Changes

Week	
1	**Phase 1: Research and campaign development**
	Survey members on their pension scheme membership and thoughts on proposals[2].
	Map number of members affected and recruitment targets.
	Set up activist campaign team, involving influential members.
	Contact Pensions Unit (via regional organiser) about the employer's proposals.
2	Identify how to impact the decision-maker's (the employer's) decision.
	Establish employer motivation and our counter arguments.
	Secure union invite to any employer-member consultation events.
3	**Phase 2: Base-building**
	Circulate comms to UNISON members about impact of proposals.
	Identify potential allies (MPs, academic staff) in campaign.
4	Hold first union meeting for all affected staff – recruit members and campaign contacts.
	Task participants with a campaign activity (e.g. speaking to colleagues, gathering petition signatures).
5	**Phase 3: Launch Issue Based Campaign**
	Gather member feedback on pension proposals.
	Offer support and pensions surgery to members only.
	Identify individual member case studies for media / comms.
6	Agree press release and public comms strategy.
	Hold second union meeting, this time for members only, to agree campaign plans.
	Hold public/ member launch event with allies to announce the branch position and cover this in comms to members and on social media. Seek public support from campaign allies via petition or letter writing campaign.
7	Present UNISON consultation response at high-profile event involving member mobilisation.
8	Create public interest in the employer's decision.

2. Any collection of personal data in relation to eligibility to be a member of a certain pension scheme should be in accordance with UNISON's data protection Guidance on Surveys and Forms, which can be accessed on the UNISON organising space data protection tile. Data should only be collected at the point at which it is needed, i.e., when the union initiates a campaign to improve a pension scheme or when a proposal to change the pension scheme is put forward and should be deleted within 6 months of the end of the campaign. All personal data must only be stored on UNISON's membership database and any paper or electronic records used to collect it should be stored securely, password protected and destroyed when no longer in use. These steps are in line with the data protection principles of the UK GDPR which must lie at the heart of all processing of personal data. Further information on these principles can also be found on the UNISON organising space.

Phase 4: Resolve the issue (and go to Phase 5) or escalate and create a crisis (for the employer or ultimate decision maker).

After the 60 day consultation, if the employer is proceeding with its plans, bring multiple pressures to bear simultaneously until they create a crisis for the decision maker which exceeds the cost of settling the dispute. Pressures might include industrial action, bad publicity, and contact from influential people.

Phase 5: When we win, we celebrate and consolidate the gains from the campaign

Publicise win in media and to members/staff.
Ensure that the employer knows ongoing importance of pension provision to staff.
Be equipped to conduct a strike ballot, if necessary, in future
Consolidate membership growth and activist identification.

Before the consultation period

The consultation period only gives us 8 weeks, and it is likely that a UNISON branch will have more notice of an employer's intention to move against our members' pensions. There are important tasks that can and should be done prior to a formal consultation period opening. The early completion of these tasks gives us a better chance of a successful outcome and may even help to deter the employer from worsening members' pensions.

Tasks to do before a consultation opens:

— Gather and record data on who is in (or could be in) the pension scheme. This must be done in accordance with UNISON's data protection guidance on surveys and forms[3]. The processing of personal data in this way is necessary for the purposes pursued by UNISON. Providing we only gather data when we need it, which is when we are initiating a campaign to improve a scheme or when have been informed that a proposal to change a pension scheme is being made, are transparent with members about what UNISON will do with their data, follow the data protection guidelines and delete the data within 6 months of the end for the campaign when it is no longer needed, we will be compliant with data protection legislation.

— Identify an additional field on UNISON's membership database to record this. This data should not be stored anywhere other than on UNISON's membership database, and any electronic or paper lists or surveys used to collect the data should be securely stored and password protected whilst in use and destroyed after use.

— An initial staff pensions survey would be a good way to obtain missing contact and scheme eligibility information, and to show members the importance of the pensions issue to the union.

Having good information about who is eligible to be in which pension scheme will help us to:
— Target communications to members.
— Get member input on employer proposals.
— Ballot the right people for industrial action (if we need to).

Points for negotiation

An employer will sometimes propose changes to pension schemes after the results of a scheme valuation show increasing employer costs and risks.

The Pensions Unit can assist the branch with the negotiation. It is very important to discern the underlying rationale for a proposed change. Some questions to ask in the consultation include:

— Is the employer overstating the costs or risks of the DB scheme?

— Is the employer making unrealistic or overly cautious actuarial assumptions on:

- Investment returns?

3 UNISON's data protection Guidance on Surveys and Forms is accessible on the UNISON organising space on the data protection tile.

- Inflation?
- Longevity?
- Discount rate?

— Have other employers done the same in similar circumstances?

— Has the employer considered the equality impact of its proposed changes?

— Is the employer proposing a new scheme that will deliver decent retirement incomes?

One key thing to establish at the outset is whether the employer is acting in good faith, on the basis of well-founded concerns about the affordability of the scheme. If this is the case, then there may well be scope for meaningful negotiation about their proposals. The consultation period may prove fruitful in ensuring that any changes are done in a way that mitigates the worst effects and reflects the preferences of our members.

However, if the employer is deliberately inflating the predicted costs of the scheme to justify a grab on our members' incomes in retirement, then a more high-profile campaign is likely to be needed to get the employer to change course.

Escalating a campaign

It is crucial that we are well-organised with an accurate list on UNISON's membership database of members affected by the proposed change to pensions. This is important so that we present a credible threat through a ballot for strike action if needs be.

There are other things that we can do to make the cost of worsening the pension scheme higher for the university than any cost savings they may be seeking. This can be done through:

— Set piece events involving members. For example, mobilising a large number of UNISON members to present our consultation response to the vice-chancellor in person.

— Media work including member testimony on the effects of the proposed change.

— Publicity around the vice-chancellor's pension.

— Mobilising support from MPs, academic staff / departments - power mapping to determine the best pressure points for influencing the university.

Remember, our negotiating position is vastly improved if members are engaged and there is an active campaign.

Campaigning to improve members' DC schemes

The trend towards professional services staff being moved from DB schemes (whether locally administered schemes or the LGPS) to DC schemes has been ongoing for some years, and branches may be in a position where many members are already in DC schemes. The discussion above has focused on campaigning to defend DB arrangements, but where members are in a DC scheme there is also scope for branches to initiate campaigns for improvements.

A key factor in determining DC pension incomes is the level of contributions paid in. The legal minimum is only 8% (3% employer and 5% employee) but a figure well above 20% would be necessary to match the pension incomes accrued in DB schemes. The Living Wage Foundation has recently suggested a 'Living Pension' contribution level of 12% (7% employer and 5% employee). The Pensions and Lifetime Savings Association have a Pensions Quality Mark (PQM) that requires total contributions of 10%, or 15% for PQM Plus. The highest employer contributions into DC schemes that we are aware of in HE are around 16%. There is scope here for branches to highlight the inadequacy of existing pension contributions and call for employers to put more into DC schemes.

The UNISON pensions unit can provide support in making the case for higher employer contributions and other features of a 'decent' DC scheme. These themes are included in the unit's DC toolkit (UNISON, 2017):

- Fully transparent charges.
- Security for dependents and protection in the event of ill-health.
- Employer sponsored independent financial advice and full pension flexibility.
- Counting all salary as pensionable – not just basic salary.

Another potential improvement for DC scheme members could be to move to a 'Collective Defined Contribution' (CDC) pension scheme. In CDC schemes, the members' contributions and employer contributions are pooled in a collective fund. Pooling of longevity and investment risks can make CDC schemes more resilient than individual DC pensions. Unlike DB schemes however, there is no guarantee of what level of pension benefits an individual will receive on retirement. Members are informed of the target pension that the scheme is attempting to pay.

Where we are initiating a campaign to improve a DC scheme, we are not bound by the 60-day consultation timescale, but a similar 5-stage strategy could be followed. We should also be live to the potential opportunities to launch a campaign to improve a DC scheme following a 60-day consultation when pension issues and the shortcomings of the DC scheme may be prominent in the workplace.

Case study: University of Southampton

The University of Southampton proposed to close its locally-administered PASNAS scheme for professional services staff in 2018. UNISON campaigned against this proposal and succeeded in keeping the scheme open for future accrual for existing members. However, the scheme was closed to new members and from 2019 new starters were offered only a DC scheme.

As numbers of staff in the DB scheme subsequently declined, the employer proposed to deal with a scheme deficit by worsening the accrual rate, increasing the retirement age, and increasing member contributions.

The branch and regional organiser were keen to ensure that UNISON's consultation response properly reflected the views of members. A step-by-step plan was formulated with the involvement of the pensions unit that included improved organisation through increased branch activity, the recruitment of new activists, and updating UNISON's membership database RMS to allow targeted comms and balloting[4].

Step 1

Map PASNAS scheme members with branch membership:

- **When?** Ahead of consultation opening.
- **How?** Check RMS/ WARMS for existing additional field (admin).
- survey members and ask them whether scheme members (branch).
- Update RMS/WARMS from responses (admin)[5].
- **Pros/ cons:** survey can encourage members to get active, response rate unlikely to be 100%, not relevant to all members.

Step 2

Contact national pensions team for support:

- **When?** As soon as possible when aware of proposed changes.
- **How?** RO to contact Pensions Unit.
- Ensure Head of Pensions has all information required.
- **Pros/ cons:** early access to information will lead to early advice about tactical response.

Step 3

Update RMS:

- **When?** Once survey has closed and throughout.
- **How?** Pass information to branch WARMS user or regional RMS user[6].
- **Pros/ cons:** if we can flag scheme members on RMS using additional fields, we can contact them directly as a group or identify them for balloting. With low response rates this is not reliable. All contact with members can be used to improve this data by asking whether scheme member.

Step 4

Engage with employer through negotiation:

- **When?** Before and during employers' consultation.
- **How?** Attend employer's sessions with members to receive detailed information. National pensions officer to lead negotiations for UNISON, engage with actuaries and trustees.
- **Pros/ cons:** Questioning the employers' plan can lead to changes.

4 As per note 2 above
5 As per note 2 above.
6 As per note 2 above

Step 5

Engage membership with proposals:

- **When?** During consultation.
- **How?** Survey, drop-in sessions, online meetings.
- **Pros/ cons:** could encourage new activists, engagement low, understanding of pensions changes low, use to check appetite for action.

Step 6

Member meetings with pensions expert:

- **When?** During consultation.
- **How?** MS Teams or face to face.
- **Pros/ cons:** hybrid working makes face to face contact hard, holiday period, activists also on leave.

Step 7

Submit response to employer:

- **When?** Before end of consultation.
- **How?** In writing with support from Head of Pensions.
- **Pros/ cons:** Challenging the proposals can lead to change.

Step 8

Update RMS[7]:

- **When?** End of consultation.
- **How?** Flag members who are in the pension scheme.
- **Pros/ cons:** possible to contact all pension scheme members or ballot.

Step 9

Review of work, next steps:

- **When?** After end of consultation.
- **How?** Reflect on consultation outcome and what led to it.
- **Pros/ cons:** learning for next time.

7 As per note 2 above

Case study: University of Dundee

In March 2021, the UNISON branch at the University of Dundee was given just a day's notice of their employer's intention to open a 60-day consultation on closing the locally administered DB scheme. The University wanted to replace it with a DC scheme.

The branch consulted members who roundly rejected the proposal. The branch then opened a strike ballot that led to the employer extending the consultation period to twelve months.

UNISON members overwhelmingly supported the strike and took action on noisy and well-attended picket lines. Eligible UCU members joined the action, along with colleagues from Unite.

The campaign involved questions being asked in the Scottish Parliament and motions being put to Dundee City Council.

Detailed negotiations followed, where UNISON questioned the need to close the scheme.

After a long struggle, the employer agreed to keep the DB scheme open. However, they worsened the accrual rate (from 80$^{\text{ths}}$ to 100$^{\text{ths}}$), the employee contribution rate (from 7.75% to 8.75%) and the normal pension age (from 65 to the state pension age). UNISON and the University reached an agreement through Acas that these negative changes will be reviewed at the time of the next scheme valuation. The employer has committed to an 'open book' review of the scheme with a view to improving it for members if circumstances allow.

Members in Dundee fought hard to keep their DB scheme. They also won non-consolidated cost-of-living payments, Foundation Living Wage accreditation backdated to 1 October each year, and a process for submission of re-grading appeals.

Case study: Northumbria University

Northumbria University established a wholly owned subsidiary called Northumbria University Services Limited (NUSL) in 2016. It covered certain grades of professional staff and enabled the university to side-step the obligation to offer Local Government Pension Scheme (LGPS) membership to all professional support staff.

The proposals provoked a furious response from members and drawing the expertise of UNISON's Head Office Pension Unit, the branch took our arguments to the Board of Governors.

As the impact was principally to fall on future members, it proved difficult to rally support for industrial action against the initial steps to create a wholly owned subsidiary.

However, it was possible to mitigate the damage by securing agreement that:

- Our recognition and facilities arrangements with the university would be extended to include NUSL;
- Only new joiners after a specified future date would be employed by NUSL (which was repeatedly set back);
- University staff who moved to NUSL due to promotion had their right to remain in/or to join the LGPS fully protected;
- The defined contribution pension scheme which NUSL employees would be offered (UCRSS) would be improved (using the support provided by UNISON's Head Office Pension Unit;
- Employer contributions to the pension scheme would be raised;
- The option for an employee contribution rate of zero would be retained;
- The university would match a sliding scale of employee contributions up to a maximum employer contribution of 12%;
- Other than pension arrangements, NUSL employees would maintain the same pay, terms and conditions as university employees.

References

Employers Pensions Forum for Higher Education (EPFHE) (2017) *Suitability and Sustainability: Pensions in the Higher Education Sector* https://www.ucea.ac.uk/library/publications/Suitability-and-Sustainability-Pensions-in-the-Higher-Education-Sector/

UNISON Bargaining Support Group (2023) *Bargaining Guide to Wholly Owned Subsidiaries.* See the bargaining guides section of the UNISON website.

UNISON (2017) *DC Toolkit* https://www.unison.org.uk/content/uploads/2017/07/UNISON-DC-Toolkit.docx

UNISON (2019) 'Union issues pension warning for university and college workers', 5 June, https://www.unison.org.uk/news/2019/06/lgps-he-fe/

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