APP0001

Written evidence submitted The Universities and Colleges Employers Association (UCEA)

The Universities and Colleges Employers Association (UCEA) is a membership body that provides its 170-member Higher Education Institutions (universities & colleges) with timely advice and guidance on all employment and reward matters relevant to the Higher Education (HE) sector. Our purpose is to support our member organisations in delivering excellent and world-leading higher education and research by representing their interests as employers and facilitating their work in delivering effective employment and workforce strategies.

A key policy area on which we support our employers is pensions. UCEA represents HE employers on both the Teachers' Pension Scheme (TPS) and Local Government Pension Scheme (LGPS) Advisory Boards. There are around 70 HE employers in the Teachers' Pension Scheme with approx. 6% of the TPS membership or 42,000 active members. There are around 100 employers in the LGPS, approximately two thirds of which are scheduled employers, that employ approximately 60,000 out of the total 1.7 million LGPS members across 41 local funds. There are also 42 university medical schools that participate in the NHS Pension Scheme (NHSPS) for clinical academics.

The main area we wish to comment on is the need to consider "a fairer balance between the interests of pension scheme members and taxpayers, and between current and future generations". We also raise specific issues relating to the participation in the public service schemes by Higher Education Institutions (HEIs) that are now not categorised as public sector employers and so receive limited, or in the case of TPS, no additional financial support towards increased employer contributions. This means that participation in the public service schemes has become a significant financial burden on certain individual HEIs.

HEI participation in the public service pension schemes is a hangover from the days when the post-92 universities were polytechnics managed by their local authority. They were completely separate from the older pre-92 universities and one of the differences was that their academic staff were offered the TPS and professional services staff the LGPS (rather than the Universities Superannuation Scheme and a local pension scheme respectively in the pre-92s). This structure has continued to this day as these modern "Higher Education Corporations" (HECs) are still required by law under the respective scheme regulations to participate and automatically enrol eligible staff into TPS or LGPS. They cannot choose to stop offering eligible staff membership of these schemes.

However Higher Education has changed significantly during the last thirty years. One significant change is that HEIs are no longer considered public sector employers. They are now defined by the ONS as "Non-Profit Institutions Serving Households" (NPISH). In addition, rather than government teaching grants, the majority of their income comes from student fees - on average HECs receive 75% of their income from tuition fees - and the focus is much more on the student, in particular how the HEI offers value for money for the fees they pay. This is demonstrated by the recent change in HE regulatory oversight from the Higher Education Funding Council to the Office for Students. In this context it is vital that

HEIs can justify to students how they spend their tuition fees. As the committee is aware, employer contributions to the public service schemes have increased significantly in recent years, for example, one post-92 HEI has estimated that 11% of their student fee income is spent on pension costs rather than providing services for students. This appears to us to be a significant issue when considered in light of the call for intergenerational fairness and one that these HEIs have little, if any, control over.

The recent NAO report on public service pensions discusses the significant increase in employer contributions that was implemented in the unfunded schemes in 2019 and concludes that this "represents a shift of costs to employers and away from HM Treasury's balancing payments". This is not as simple as switching cost between taxpayer sources. For those employers that are not directly funded by government, like HEIs, the transfer of cost was away from HMT to these employers as a direct hit on their budgets. For HEIs this diverts tuition fees away from funding services for staff and students.

For post-92 universities, staff costs are their main expense with most spending between 50 and 60% of total income on staff. This means that increasing pension contributions hits expenditure hard, especially in relation to TPS as academic salaries represent the largest proportion of their payroll. At the same time growth in income - mainly tuition fees – has been limited[1]. In the meantime, HEIs have been pushed to become more efficient and cost effective and have borne the costs of a number of economic crises, Brexit and now the Covid-19 pandemic. The impact of this is demonstrated by at least one HEI stating that sta ff redundancies were needed as a direct result of the requirement to reduce costs in order to fund the increase in TPS employer contributions in 2019.

There are very mixed messages in terms of how private sector employers such as HEIs participate in the public service pension schemes. The Government's focus in relation to the public service schemes on managing cost for members and taxpayers ignores the employer impact that these cost increases have. While it is true that HMT carries the balance of cost, these employers need to find the cash to pay ever increasing contributions. This is especially hard when announcements regarding cost increases are made at relatively short notice and mid financial year. LGPS results tend to come out around Christmas to be implemented the following April and TPS results are also implemented in April when the majority of HE employers in the scheme run a financial year based on the academic year – from 1 August to 31 July. When the result of the 2016 unfunded scheme valuations were implemented with a 7.2 percentage point increase in employer costs for TPS (16.48% to 23.68% of pensionable payroll) and 6.2 percentage point increase for NHSPS (14.38% to 20.68% of pensionable payroll), finding the money to pay for these unforeseen and unprecedented increases out of existing budgets was a struggle for all employers. This was recognised by government through the decision to subsidise the increase for public sector employers in 2019/20; a decision that was carried forward into 2020/21. However, as HE is private sector, HEIs received no subsidy for TPS and only a partial subsidy towards their NHSPS contribution increases. The contribution increases therefore had to be funded from existing resources with a consequential impact on the services and facilities offered to staff and students. In our view there is clearly an issue of unfairness for those non-public sector employers, like HEIs, that have no choice about their participation but also have no control over the cost or benefits of these schemes and do not receive any subsidy to assist with the cost. (As a separate comment, whatever the outcome of this review, we would suggest that both increasing contributions for employers and continuing subsidies by HMT are unsustainable solutions.)

[1] The Government increased tuition fees to £9,000 pa in 2012 and they have remained at this level unless the HEI entered the Teaching Excellence Framework in 2017 when they are allowed to charge £9,250 pa. There has been no increase since.

By virtue of their low member numbers in these schemes, HEIs do not have a strong voice and can apply little influence. One area that demonstrates this is the way that the valuation assumptions are set. HMT retains responsibility for the main investment related assumptions including the SCAPE discount rate which is a significant driver of the cost of the scheme. The employers have no influence over either the amount or timing of these changes. It may well be that HMT wishes "*employers bear the consequences of their employment decisions"* but in most cases employment decisions have very little impact on the cost of the scheme in comparison to the discount rate. There are also assumptions that are, understandably, set based on the characteristics of the majority of the particular scheme membership, for example, school teachers in the case of the TPS. This can mean that the assumptions used are not suitable for the HE proportion of the membership – gender and age profile, pay awards, longevity, turnover etc can all be very different in a HEI compared to a school.

In relation to these schemes the Government appears to consider that HMT and the employers are essentially one and the same, particularly when considering scheme funding, when this is not the case. One recent example of this is the recent unilateral decision taken by government as part of the McCloud remedy to disregard any requirement for benefit reductions that would otherwise be required through the cost management process. In allowing the current benefits to stand in these circumstances a cost will accrue which will fall on the employers. This has little impact on those employers that are directly funded by government or are currently receiving a government subsidy on their contributions, but HEIs will need to fund any additional cost directly and had no part in the decision making process or even any advance warning that this was being considered.

A further issue for HEIs is the lack of a level playing field across the HE sector in relation to pensions. Pre-92 HEIs offer USS to academics which has undertaken significant reform in recent years to manage the cost to employers, and they have local control of the cost and risk borne in relation to pensions for their professional service staff. Post-92 HEIs have none of this control and significantly higher cost. This is driving these HEIs to consider alternative options such as the use of subsidiary companies to enable them to offer alternative pension schemes.

If HE is no longer public sector the question remains, why are HEIs in the public sector pension schemes? Our employers are starting to ask this question and have empowered us to lobby on their behalf to change this. HMT's focus is clearly on the need to keep contribution income high so that the gap between cash coming in and cash being paid out as pensions and any resulting balancing payment is kept low, but this is preventing real debate on who should be participating in these schemes.

While post-92 HEIs are required to participate in the public service schemes, HE is in most other ways treated as private sector by government. This has been the case for some time. For example, Fair Deal does not apply to the HE sector. The Government's view (as stated in a letter from HMT to TUC dated 17 March 2014 in relation to the application of Fair Deal) was that "the Government is not involved in setting the terms and conditions of employment for staff in these bodies and is taking steps to increase the level of autonomy they enjoy". The continued requirement to participate in the public service schemes therefore feels like an anomaly that should be corrected.

We would suggest that a proposal like that recently agreed "phased withdrawal" for independent schools that wish to exit TPS should be considered for HE. Applying a 'phased withdrawal' process in the same way as independent schools would protect current scheme members but give HEIs the choice over benefit provision in the future. While there would potentially be a minor reduction in employer contributions received into the scheme if HEIs are allowed to offer an alternative to TPS, this would be offset by the ever increasing numbers of new employers and members joining the scheme and paying contributions each year.

We have responded robustly to the consultation on HE participation in the LGPS in England and Wales in 2019. The consultation proposal was to remove the requirement for HECs to offer LGPS to new professional services staff, allowing them to offer a DC alternative instead. To date the Government has not yet responded to confirm whether or not they will move forwards with this proposal, though we are told a response is due in “the Spring” (2021).

A further comment made in the NAO report is the lack of flexibility in the public service schemes. This is also an issue for HEIs. While there are some similarities between the pay and reward packages offered across HE, as HEIs are increasingly divergent “independent, autonomous employers” there are also significant differences and the employers wish to attract and retain employees in different ways. Benefit flexibility is a key part of this and it is to be expected that the flexibility required by a HEI for academic staff will differ to that needed by a school for teachers.

As is to be expected, government is much more focussed on school teachers in TPS and clinicians in the NHSPS, and rightly so as the schemes were set up to meet the needs of these workforces, but this means that many of assumptions applied when setting the cost do not fit with HE, for example, public sector pay increase assumptions are set by central government in line with national agreements, but in HE, pay is negotiated by UCEA with the sector trade unions. UCEA has commented on this as part of the valuation process but as we are a small voice within the scheme governance mechanisms we have little influence.

So we are in a situation where for historic reasons, HE employers are trapped in schemes not designed with them or their employees in mind, where they have little influence on the cost, little influence on the benefit structure and little or no additional funding to help pay rising contributions. This comes at a time when government is emphasising the need to demonstrate efficiency and value for money across all their functions, especially to students. On top of this, the other employers in the HE sector, those that are pre-92 HEIs but increasingly new providers setting up from scratch, have much greater control over their pension obligations. We believe this is something that needs to be corrected and are willing to work with HMT, the relevant government departments and the schemes to consider possible options for the HE sector going forward.

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