COUP – Committee of Unilever Pensioners

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The Committee of Unilever Pensioners (COUP) represents the interests of the members of the Unilever UK Pension Fund. It is totally independent of Unilever plc and the Unilever UK Pension Fund (UUKPF).

The fund itself is a large one with 80,694 members of whom 6,937 are Active, 31,604 are Deferred and 42,153 are pensioner members. It has £7.6billion in assets but they are offset by technical provisions of £8.7billion resulting in a deficit of £1.1billion as of 31st March 2015 and a further valuation is underway as of 31st March 2016. However, unlike that of Tata Steel UK, it is protected by a strong covenant.

We have great sympathy with the current plight of Tata Steel's employees and their endeavours to retain their current employment and safeguard their pensions but we are fearful that the present well intentioned moves to help them could have unforeseen and devastating effects on the pensions of many thousands of other pensioners in company schemes throughout the UK. Remember, in the majority of cases their pensions are based partly on contributions they have made during their working lifetimes and, in effect, are part of their pay package.

If the moves to help Tata Steel's employees are not carefully thought through many employers will see them as an opportunity to renege on their pension promises and so base annual increases on the lower Consumer Price Index (CPI) rather than the Retail Price Index (RPI), which is enshrined in their Trust Deed and Rules.

Steve Webb, the former pensions minister who was highly respected during his period of office, recently highlighted this loophole. While pointing out that British Steel was seeking changes that would allow it to reduce benefits to keep the pension scheme open, such as a lower-value index, he is reported as declaring: "The issue becomes whether pension schemes should be able to change their own rules and break their promises."

He expressed concern that the oldest pensioners – those who completed service before the Pensions Act 1997 was passed – would be most affected because the legal minimum protection prior to that was very low. Such changes would have long-term repercussions for salary-related pensions generally.

Furthermore, he warned that the government would not want such repercussions to spread but if a law were to be passed that allowed this to happen "many employers may want to walk away from their pension schemes".

COUP’s interest in the BSPS public consultation is based on its concern that some of the proposed options might be used as a precedent to make changes to the rules of the Unilever UK Pension Fund to the detriment of its members. We hold the very strong view that changes should not be made to legislation which could, inadvertently, adversely affect the pensions of our members.

In section 110 you say that “*a number of other employers with DB schemes have raised concerns about the size of their liabilities and the possible impacts on their sustainability as a business*” but you “*are not considering extending the proposal beyond the BSPS as a specific scheme.*” We believe the pressure from “me too” employers and funds will be difficult to resist.

From the contents of the consultation document we have concluded that the options to change legislation listed would not give greater protection to TSUK employees and BSPS members than the option of using a Regulated Apportionment Agreement (RAA) or Flexible Apportionment Arrangement (FAA). Such an agreement or arrangement would not require legislative changes and so would not affect other funds.

Here are our responses to the questions posed in the consultation document:

Question 1: Would existing regulatory levers be sufficient to achieve a good outcome for all concerned?

The existing regulatory levers appear to be adequate to achieve a satisfactory outcome for all concerned. The PPF option remains as a fallback.

Question 2: Is it appropriate to make modifications of this type to members’ benefits in order to improve the sustainability of a pension scheme?

No. Modifications of this type would not be appropriate. Those of the type described do not appear either improve BSPS members’ benefits to a greater extent than RAA or FAA or the sustainability of the scheme. However, even if they did, the future risk to other pension’s schemes throughout the UK would not in any way justify such a change.

Question 3: Is there a case for disapplying the Section 67 subsisting rights provisions for the BSPS in order to allow the scheme to reduce indexation and revaluation if it means that most (but not all) members would receive more than PPF levels of compensation?

Absolutely not.

To put this in context if, in future, it was applied to our Unilever pension fund, we could see the liabilities of RPI-linked funds fall by up to 1 per cent compounded each year. This would amount to a drastic cut in the future pensions promised to current and future pensioners and to which they have been making contributions based on those promises. Overall it has been estimated that a change to CPI would reduce the value of the pension rights of existing pensioners by 6%, and for Active and Deferred members by 15%. Surely this is not and never could be the government’s intention? The only beneficiaries of such a move would be the company and its shareholders!

As it is, the members of the Unilever UK Pension Fund have already seen severe impacts on their benefits:

- ***Active members*** have seen their Final Salary Plan close to future accrual from June 2012 and replaced with a Career Average Plan within certain salary limits and an Investing Plan for salaries above the top limit. It has been estimated that the reductions in total retirement pension for final salary members would range between 10% and 30% at age 65. A critical element of

CARE schemes is the revaluation factor which, in the Unilever scheme, is linked to the RPI as it is currently calculated. To compound the reduction above with another 15% reduction would be completely unreasonable.

- Certain ***Deferred members*** could retire from age 60 with an unreduced pension under a Company discretion. This has been withdrawn in most circumstances. Also, Career Average pensions built up in deferment from July 2012 will be capped at RPI 2.5% a year rather than 5.0% previously. To compound this with another 15% reduction would be completely unreasonable.
- Most ***Pensioner members*** have their increases capped under rule at RPI 5.0% but had a reasonable expectation of full RPI under a Company discretion as Unilever had enjoyed a contribution holiday for nearly 11 years while the fund was in surplus. In 2011 Unilever informed pensioners that they should not expect this discretion to be exercised in future but will review it should it be relevant on a year-by-year basis. To compound this with another 6% reduction in the value of their benefits would be completely unreasonable.
- Some members from ***all categories*** may have been sold additional inflation protection up to RPI 5% for additional contributions. If CPI is introduced instead of RPI this protection will have been overpriced.

These benefit changes and the change in Unilever discretionary practice has resulted in a reduction of the liabilities of just under £0.5billion.

We regard our member's pensions as a commercial contract with their employer. Retrospective financial changes to existing contracts of this magnitude should not be a side effect of government action no matter how justified it may be in terms of helping a particular company or fund. When employees retire their pension is a vital part of their income. Indeed, it has been estimated that a third of the value of their pensions goes to pay for future increases.

Question 4: Is there a case for making regulatory changes to allow trustees to transfer scheme members into a new successor scheme with reduced benefit entitlement without consent, in order to ensure they would receive better than PPF level benefits?

Yes but only with individual member consent. Members must be provided with adequate time and advice (at no cost to themselves) on whether it would be in their individual interest to opt to the PPF.

Question 5: How would a new scheme best be run and governed?

The construction of the board of the BSPS pension fund is critical for scheme members to have confidence that they are discharging their duties correctly and that members' best interests are given adequate consideration when balancing other competing interests.

In section 138 you state that "The trustee board has 14 members, seven are nominated by the company and seven are member-nominated trustees (MNTs)". There is no information on whether the MNTs come from Active, Pensioner or Deferred member categories or how they are selected. If they are chosen by a Company dominated panel or a panel containing a majority of Company appointed trustees then members will not have any confidence that the trustees are acting in their best interests but are more interested in those of the company. We believe the breakdown of member-nominated trustees should be reflective of each category of membership. As the British Steel Pension Scheme has approximately 130,000 members with around 14,000 Active, 32,000 Deferred and 84,000 Pensioners we would advise there should be at least three pensioner MNTs. We are convinced only the democratic election of those member-nominated trustees will inspire the confidence of the members and give them the independence and confidence to stand up for members best interests.

Furthermore, we believe the board of trustees should have an independent chair appointed by a committee of trustees with equal representation from Company appointed and MNTs. A number of companies can help in creating a long/short list of suitably qualified individuals.

In the consultation paper reference is made to those subject to the PPF cap (i.e. all those under normal pension age). The 2016 cap means that the maximum compensation that can be paid is £33,678 annually. You estimate that the current PPF cap would affect 776 members of the BSPS. Of these, 665 people (85 per cent) have more than 20 years' service so would benefit from the introduction of the long service cap of £59,872.
It is not clear whether none, some or all the trustees would be affected by the PPF cap. It would be helpful to know this.

Question 6: How might the Government best ensure that any surplus is used in the best interest of the scheme's members?

Should the Fund generate a surplus in the future it must be used to pay past and future cost of living increases based on the RPI uncapped. Any further funds should be used to improve pensioner benefits.

Question 7: What conditions need to be met to ensure that regulations achieve the objective of allowing TSUK to reduce the levels of indexation and revaluation payable on future payment of accrued pension in the BSPS without the need for member consent, balancing the need to ensure that member's rights are not unduly compromised?

This question pre-supposes that the regulations dis-applying the subsisting rights provisions (section 67) to the British Steel Pension Scheme are passed. Our very strong belief is this should not occur under any circumstances. We have serious concerns about the precedent that could be set by tampering with section 67. It might or could be used in the future by other employers and pensions funds to reduce the value of their member's benefits. We have no confidence that the government would stand up to special pleading by other employers or pension funds once a precedent had been set.

Question 8: What conditions need to be met to ensure that regulations achieve the objective of allowing trustees to transfer members to a new scheme without the need for member consent, balancing the need to ensure that members' rights are not unduly compromised?

All the conditions listed in paragraphs 150 and 151 with a change to 150.c.ii requiring the specified time period to be reasonably sufficient for the members to obtain independent financial advice.

I am responding on behalf of COUP and its thousands of members. We have no objection to our submission being published.

Please acknowledge receipt of our submission and provide us with a copy of your report of the consultation with supporting evidence.

Yours faithfully,

J Scholey
Chairman