



SUSS: An Overview **Briefing note for students' union sabbaticals and student trustees**

July 2020

Introduction

This briefing note is intended to give SU sabbaticals and student trustees an overview of SUSS (the Students' Union Superannuation Scheme).

SUSS is an occupational pension scheme set up in 1981 to provide pensions in retirement to students' union staff members, including sabbaticals. Some 64 students' unions plus NUS are part of SUSS, with around 2,500 individual members either receiving pensions or due to receive pensions once they reach retirement age. SUSS is a defined benefit scheme, meaning there is a guaranteed sum paid annually to the individual after retirement. This sum is calculated based on the member's pensionable salary in the years leading to the earlier of retirement or leaving pensionable service, as well as the number of years the member contributed to SUSS. The calculation varies depending on when the member joined SUSS as explained further below.

SUSS closed to future accrual on 30 September 2011 – this means employees of SUs cannot join SUSS and existing members of SUSS all left pensionable service no later than 30 September 2011 and can no longer build up any further pension entitlement. However, for those SUs in SUSS there remain certain legal obligations towards SUSS, not least ensuring SUSS has enough money to pay the pensions due. At the moment, SUSS has less money than is required to meet its obligations, and for this reason, 'employer contributions' to SUSS will continue to feature in the budgets of member SUs for some years to come. Depending on the number of individual members from a given SU who joined SUSS, this can be a significant sum.

This note aims to help you understand certain key information about SUSS to aid you in your role as a trustee or executive member of your SU. It will set out a brief history of SUSS and the reasons it closed to future accrual; discuss the present situation and why member SUs must make continued contributions and what may happen next; look at an issue with the historic administration of SUSS that the trustees have identified and what this may mean for SUs; and indicate where further information on SUSS can be found. There is also a glossary of abbreviations at the end of the briefing.

A brief history of SUSS

When SUSS was launched in 1981, SUs did not generally employ large numbers of staff. However, numbers were steadily growing, and with them an understandable desire for some form of pension provision. Although some SU staff could access alternative arrangements through their parent institution, in many cases this was not possible, and SUs were often too small to be able to run their own scheme given the way pensions operated at that time. Moreover, staff would often move between different SUs (much as they do today) and leaving and joining separate schemes would be administratively complicated. Given these considerations, and as organisations founded on the principle of collective action, a joint pension scheme for the movement was seen as the ideal solution.

As with most occupational pension schemes, both the individual and the employer made contributions based on a percentage of the individual's salary. This money was invested in various financial assets including company shares, government or company bonds, property and so forth,

with the aim of generating enough income from these assets to pay pensions when they fell due on retirement.

Originally SUSS offered pensions based on the final salary of the individual at the time they retired or left service with the SU and the number of years of contributions, in common with almost all pension schemes then available. However, by the early 2000s this arrangement became unaffordable, not least because of ever greater life expectancy – that is, pensions needed to be paid for more years than was assumed to be the case in the 1980s. In addition, a number of pension fund scandals, most notably that involving Robert Maxwell and the Mirror newspaper group, resulted in a much stricter regulatory framework which required far more caution when making assumptions). Finally, there were periods when investments did not perform as well as anticipated. For these reasons, by 2000 SUSS had a deficit of around £25m – in other words, it had fewer assets than it needed to pay the pensions due. For this reason, two changes were made: first, in 2000, the age at which pensions were paid was increased from 60 to 65. Secondly, SUSS changed in 2003 to a ‘CARE’ scheme (Career Average Revalued Earnings). Thereafter, pensions were based on the average salary over the period the individual paid contributions into SUSS rather than their final salary, although any entitlement that had built up by reference to their final salary before this date was preserved. This change to CARE reduced the final cost of pensions.

Despite this change, the financial crisis of 2007 would mean even greater challenges as share prices fell and other investments suffered. The deficit increased to £48m by 2010 and, given the economic problems then facing the UK, it would likely only increase. Although most pension schemes faced similar pressures – the equivalent scheme for academic staff in universities, USS, saw its deficit reach £3bn by 2011 and may be as much as £7.5bn today – for SUSS there were particular risks. Each participating SU has a ‘share’ of this deficit based on the number of individual members of SUSS it employed. For most SUs this share would have been ruinous if the entire amount became due in one go – as would be the case under law if any SU ceased to employ an individual member of SUSS or suffered an insolvency event (known as triggering a ‘section 75 debt’ in the legal jargon – in fact the SU’s share of the deficit would be based on a more cautious assessment of the liabilities based on the estimated cost of securing annuities for all members with an insurance company). If they could not pay, their share would then be apportioned among the remaining SUs, further increasing the burden on each of them.

Many SUs had only a few individual members and very limited cash or other assets of their own in the event they had to pay their share of the deficit. As such, the risks were clearly unacceptably high. Following an extensive consultation with SUs and NUS, the trustees took the decision to close SUSS to future accrual from October 2011. However, each SU who participated in SUSS remains responsible for its share of the deficit in regard to the pension entitlement built up prior to that date.

SUSS is managed by a trustee board of six: three employer-nominated trustees, two member-nominated trustees and one independent trustee who is an expert in pensions. There is a complex legal framework around pension schemes but in essence the trustees are responsible for ensuring the individual members receive the pension entitlement they are due, according to the rules that govern SUSS, through prudent investment of the scheme’s assets. In this duty, they must be careful to consider the employer ‘covenant’ – that is, the financial health of the SUs and how this affects their ability to fulfil their obligations – but their ultimate responsibility is to the individual beneficiaries of SUSS. To be clear, employer-nominated trustees do not represent their individual SU, or the participating SU as a whole.

Instead, SUs who participate in SUSS are represented by NUS, in its capacity as 'principal employer'. NUS takes this role for two reasons: it is the membership body for SUs, and it is also the largest single employer in SUSS. A representative of NUS senior management attends trustee meetings in a non-voting capacity, and liaises with the other SUs in SUSS to ensure all participating SU views are understood when the trustees make their decisions. Where employers are required to agree to changes, NUS will act on their behalf, following suitable consultation with the other SUs.

Day-to-day administration of SUSS is undertaken by a specialist company, Barnett Waddingham LLP, and the trustees are also advised by a number of professional experts, including actuaries, investment advisers and lawyers.

SUSS today – and what this means for your SU

Perhaps the most important matter for you as a sabbatical or student trustee is the contribution your SU is making to close SUSS's deficit. Where a 'defined benefit' scheme like SUSS has a deficit – that is, its assets are not large enough to meet the pension entitlement individuals have built up – their employer (or former employer) is obliged to make up the difference. Moreover, the Pensions Regulator requires trustees to have a recovery plan in place for SUSS so that the deficit is closed reasonably quickly (by the standards of pension schemes). If they do not, or if the recovery plan is deemed inadequate, the Pensions Regulator may impose their own recovery plan. SUSS' current recovery plan aims to close the deficit by 2035 – so that the annual deficit contributions are as low as possible for SUs.

However, the deficit does not necessarily remain static even though SUSS is closed to future accrual. One of the key drivers for the deficit is the price of government bonds (also known as 'gilts'). These are low risk investments, and pension schemes are strongly encouraged to invest in them heavily. The problem for pension schemes is that, although the face value of gilt investments has increased, the yields received (that is, the regular cash return) on gilts is currently very low by historic standards, driven by a strong demand for gilts as 'safe' investments in what has been a turbulent period for investments over the last decade.

SUSS has also had to deal with an historic issue arising from its legal documentation which has meant increasing pensions for a number of members who had accrued pensionable service in SUSS in the late 1980s and early 1990s. This issue has recently been resolved and is explained in more detail below.

As a result of both the fall in gilt yields and the historic legal issue, the SUSS deficit has continued to increase (as with many other schemes), despite both the closure of SUSS and above-expected returns on our other investments. This has caused increases in the annual deficit contributions for SUs.

Under pensions law, trustees must undertake a regular official valuation of their scheme by an actuary (a profession which deals in the assessment of risk). The results of this valuation show the extent to which the scheme does or does not meet its funding requirements. From these results, a revised recovery plan and changes to contributions are put in place, if they are required. This is captured in formal documents that are submitted to the Pensions Regulator.

The trustees must conduct a valuation on a triennial basis (that is, every three years). The last valuation process for SUSS looked at the scheme as it stood on 30 June 2019. This showed the deficit stood at £141m, up from £120m in 2016. As a result, SUSS required a higher contribution from the participating SUs. As part of the process the trustees reassessed the 'employer covenant' so that they could make informed decisions on the ability by SUs to pay additional contributions. Using this

information, the trustees tried to balance the need to bring in sufficient payments to close the deficit with the knowledge that increases may be difficult for SUs to shoulder. The result was a decision to extend the recovery period by just over two years, but also increase deficit contributions in 2021. How much these contributions will rise depends on how much your SU is impacted by the historic legal issue but rises will range between 8 per cent and 44 per cent. In 2020 and in every year after 2021, deficit contributions will increase by 5 per cent per annum (this is an ongoing feature of our recovery plan).

To reiterate, in making such decisions the trustees are very conscious of the impact on SUs, but ultimately, they are responsible for ensuring pensions are paid and that the deficit is closed as quickly as possible. In closing SUSS in 2011 the most drastic action to limit the deficit has already been taken in respect of individuals. The trustees will continue to invest carefully to help reduce the deficit, including in 'liability driven investment' which reduces the impact of falls in gilt yields. If the yield (or return) on gilts improves in the next few years this should reduce the deficit – but this is by no means certain and investment alone will not eliminate the need for deficit contributions to be paid for the foreseeable future.

Note that an SU can pay contributions in larger lump sums and this may save some money – for example, paying three years of contributions in one go. It would also be possible for an SU to 'buy out' its entire share of the deficit in one transaction, although without assistance from a parent institution this is beyond the means of most SUs, as the 'buy out' sum is significantly higher than the normal ongoing payments.

The ultimate aim is to 'buy out' the benefits of SUSS completely by paying an insurance company to take over SUSS and pay pensioners from that point onwards. To do so, however, SUSS must have enough assets to pay pensions and to have built up a 'cushion' of extra assets. Although we can move towards this goal in stages, we will not be able to consider that exercise until the deficit is cleared, and that is still some years away.

Historic legal issue

As part of our work to prepare SUSS for such a 'buy out', the trustees undertook an exercise that, among other tasks, looked to ensure that the legal documentation governing SUSS was in order. Unfortunately, this exercise identified a historic issue with SUSS's administration which has had a significant impact on the deficit at the most recent valuation.

In summary, when SUSS was established in 1981, it was set up to provide increases of 7 per cent per year to pensions in payment to protect pensions from the effect of inflation. This was a very generous rate of increases but only applied to pension exceeding the Guaranteed Minimum Pension (known as the GMP). In 1988, the Government amended the law to provide that pension schemes must also pay increases of up to 3% on the GMP. In 1988 therefore, a decision was made by the trustees to reduce the rate from 7 per cent to 3 per cent per year and apply it to all pension (both GMP and the excess pension). This was recorded in the trustee board minutes and communicated to SUSS members through the usual channels and scheme booklets, and SUSS was administered on that basis in the years following. However, as part of the review exercise, SUSS's current lawyers identified that the rules governing SUSS had not been formally amended to incorporate the reduced rate of increases, until the change was captured in a separate legal process to refresh all rules in December 1993. Legally, the trustees must pay pensions in accordance with the scheme rules, and so the omission to formally amend the rules meant that members continued to be entitled to increases at 7 per cent per year on excess pension earned between 1988 and 1993, even though they were never expecting this. They also remained entitled by law to increases on the GMP they had earned during this period.

In addition, the decision in 1988 to reduce pension increases attempted to back-date the change to cover all benefits accrued since 1 October 1981, when SUSS was established. However, back-dating the change was not legally possible and so the members affected by that decision are entitled to increases at 7 per cent per year on their excess pension in respect of that period of service, and required these underpayments to be corrected.

With the compounding effects of this situation, this could have meant adding as much as circa £48m to the deficit. Clearly, such an increase in the deficit would have had a significant impact on SUSS and the participating SUs. Working with SUs and NUS, the trustees considered a range of options to address this problem, which could not be ignored due to the trustees' legal duty to pay pensions and increases in accordance with the scheme rules. The SUs felt however that the effects of this would be unaffordable and put many SUs under potentially devastating financial strain. Members who had service before 1988 had to have the underpayments made good, but a compromise position was offered to members with service between 1988 and 1993 (explained below), excluding certain categories of 'vulnerable' members whom we did not feel it was fair to contact.

The compromise position asked affected members to accept lower increases than they were entitled to for the period of service between 1988 and 1993. The justification for this compromise position was that members had not expected to receive the higher rate of increases (as all member communications had referred to the lower rate which was thought to have been adopted) and the viability of SUSS was threatened. Even under the compromise option, they would still receive higher increases for this period of service than would have been the case before the historic error was discovered.

Each individual member had to choose whether or not to accept the compromise. If they did not, or did not respond to us, they would receive the higher rate of increases. In the event, the response of affected members to this compromise offer was very positive. Around 80 per cent of affected members responded to us, and of those who responded around 80 per cent accepted the compromise position; a level of acceptance that is very unusual for this type of exercise and a testament to the values of our movement. As a result of this and other measures taken by the trustees, the ultimate impact of the issue fell to around £24.8m – still very significant but a level the trustees felt they can manage over the course of the recovery period. Even so, as we have outlined, those SUs with staff or former staff who receive higher pensions will see their deficit contributions rise in accordance with the specific impact on their liabilities, and the trustees understand this will present challenges to your SU at least in the short term.

While all underpayments have now been paid to affected individuals, any remaining members who have not accepted the compromise will continue to have the option to do so at any time, and will be reminded of the option at retirement. The trustees hope this may encourage further, albeit small, reductions in the deficit in future.

The future

Now that the historic issue has been resolved, the trustees will continue to manage SUSS, ensuring pensions are paid as they fall due, investments are made carefully, and deficit contributions are collected. Clearly, the coming years may be difficult for the student movement as the effects of the Covid-19 pandemic unfold, and the trustees have been working with participating SUs to outline what mitigations might be possible in the short-term.

More generally, the numbers of current SU staff who are individual members of SUSS is dwindling over time, and with them the institutional knowledge of SUSS. For this reason, it will also be vital to

ensure that newer staff, as well as officers and SU trustees, have access to information, and this briefing is part of that work. There is also an annual meeting of SUSS open to all participating SUs and we encourage you to ensure your SU is represented.

Further information

We send regular newsletters to participating SUs with updates on SUSS. In addition, the trustees would be happy to answer any specific questions on SUSS. Please contact us at suss@rosstrustees.com in the first instance.

We would also be happy to receive comments on this briefing note and whether it is useful – again please email the address above.

Glossary of abbreviations

CARE	Career Average Revalued Earnings
LLP	Limited Liability Partnership
NUS	National Union of Students
SUs	Students' unions
SUSS	Students' Union Superannuation Scheme