Who Am I?

I am an Associate Professor in the UQ Business School, and was elected in August 2011 to be your Academic Staff Representative.

What is the UniSuper Consultative Committee?

The Consultative Committee meets once a year to listen to reports on the performance of the superannuation funds and to vote on various proposals. The committee comprises elected staff representatives (academic and general) and university administration nominees from all Australian universities.

As a consultative committee, our vote can be over-ridden by Unisuper management; however, clearly, this would indicate a critical division between representatives and the management, and, to my knowledge this hasn’t happened.

Employee Pre-Consultative Meeting

Prior to the meeting, employee representatives met to discuss issues of concern on the agenda. The agenda arose from a vigorous email exchange among delegates, and ensured that there was an active alternative voice to question management’s performance. Issues discussed included the impact of MySuper, fees and charges, trust deed changes, and the fall in voluntary contributions.

Regarding the last item, it should be noted that combined Salary Sacrifice and “Extra Post tax contributions fell from $548.6 million in FY2008 to $437.9 million in FY2011. This 20% fall in voluntary contributions might suggest an increased edginess about superannuation as an effective retirement option.

Of course, the proposed change to Clause 34 was the most actively discussed item.

What did we vote on?

Five questions were put to the consultative committee, four of them relatively uncontroversial. The four uncontroversial items were:

- Clarifying that the Trustee can deduct financial advice fees from the Unisuper’s FlexiPension and term allocated pensions as well as the (currently accepted) Accumulation Fund.
- Fixing an anomaly in the Trust Deed to allow a more equitable arrangement for dependent children to ensure that remaining dependants receive an increased benefit when one of the children moves out of dependent status.
- Allowing the Trustee to receive all types of “third-party” contributions (e.g., payments by other family members, first home owner contribution) on a discretionary basis. This is particularly beneficial for low income members.
• Changing the terminology so that “rate of return” is used consistently in the Trust Deed as it currently also uses “earning rate”, “interest and investment earnings” and other synonyms.

I will deal with the fifth question separately

**Clause 34: Change to the Defined Benefit Superannuation Scheme**

At the outset, it needs to be understood that there are two issues here.

1. The Defined Benefit Scheme is underfunded with the likelihood that the “defined benefit” will be reduced at some time in the future.

2. The change to Clause 34 concerns the wording of how Unisuper should respond when the conditions of this clause are activated.

We voted on (2) and do not have full details about what will happen in relation to (1).

**Defined Benefit and Defined Contribution**

Defined benefits (DB) are different from Defined contributions (DC). A defined benefit (DB) pension plan

1. calculates the pension as a multiple times salary (average final 3 years) and years of service;

2. is underwritten by the employer to ensure sufficient contributions are provided to meet the pensions (annuity or lump sum) when the employee retires.

A DC scheme, by contrast, requires that the employer provide a specified level of contribution, without committing them to a promised final benefit.

**The DBD Underfunding Activates Clause 34**

People in the DBD superannuation scheme should know that your estimated retirement income and security is likely to be affected. You may have already seen the item on 7:30 Report about this underfunding. Every DBD member should have received a letter (5 December 2011) from UniSuper CEO Terry McCredden stating inter alia:

“...Clause 34 contains rules for monitoring the financial health of the DBD (defined benefits division). It...is designed to allow the trustee to take action to improve the long-term financial security of the DBD if, after at least a four year monitoring period, there continues to be a funding shortfall. It also provides for how defined benefits may ultimately be reduced at the end of the monitoring period...Any reduction could affect benefits for members still in active employment, and benefits that are currently paid out, including pensions “
In 2006, the Unisuper board of directors amended the Trust Deed to effectively relieve employers from their liability to fund any shortfall in the defined benefit scheme. The effect of this is that shortfalls would reduce the “defined” benefit. Unisuper claims that employers were never liable for topping underfunding, but this seems to be contrary to the 2005 Trust Deed that states:

34 Additional contributions where UniSuper assets are insufficient

a) If, after an actuarial investigation and valuation of UniSuper, the Trustee considers that UniSuper is or may be insufficient to provide benefits payable under the Deed, the Trustee must notify each Employer.

b) If, after the next two succeeding actuarial investigations and valuations of UniSuper (made in a period of not less than 4 years), the Trustee still considers that UniSuper is or may be insufficient to provide benefits payable under the Deed, the Trustee must call on each Employer to contribute such additional amounts (expressed as a percentage of Contributing Members’ Salaries) which the Trustee considers necessary to provide the benefits specified under the Deed.

c) Within 3 months of being called upon by the Trustee pursuant to paragraph (b), Employers must jointly notify the Trustee in writing as to the rate (expressed as a percentage of Contributing Members’ Salaries) at which the Employers are prepared to contribute to UniSuper.

d) Each Contributing Member in respect of whom Division A or Division B applies must contribute to UniSuper at a rate (expressed as a percentage of their Salary) equal to one-half of the rate at which the relevant Employer is prepared to contribute.

e) If Employers fail to give the notice required by paragraph (c), the Trustee must reduce the benefits (including benefits in the course of payment) payable under Division A and Division B on a fair and equitable basis.

f) Notwithstanding anything in this Clause 34, if the Trustee believes that UniSuper is or may be technically insolvent, the Trustee must comply with Superannuation Law.

I have no idea why the Unisuper Board at the time allowed this to happen, and believe that it is not acceptable. As it now stands, I believe that the defined benefit scheme is not technically one at all as the benefit is not defined.

Why has Clause 34 been activated?

To ensure that there are sufficient funds to meet the calls on the DB scheme, two Indexes are used: the Accrued Benefit Index (ABI) and the Vested benefit Index (VBI). The ABI measures funds available against the call on funds as people retire. It must be 100. That is, the available funds is 100% of the estimated calls made on it in the future. The VBI measures funds available against the event where everyone in the DB scheme retired tomorrow. This is set at 95. That is, funds available must represent 95% of a complete call on those funds tomorrow.

The ABI and VBI levels since 1991 are set out in Figure 1. The current levels are ABI 97% and VBI 86.1%. In other words, Unisuper cannot currently meet its liabilities. As soon as either or both the ABI or VBI are breached, Unisuper must put the fund on a 4 year watch. It was first invoked in June 2009, and has been invoked again. The monitoring period for the 2009 investigation ends in

1 I thank Mike Rafferty and others of University of Sydney for information in this section.
December 2012 with a report due in January 2013. I have no further information about what Unisuper management intend to do. However, I would imagine that a reduction in the defined benefit is likely. Chris Cuffe, the Board Chair, stated that it was “too early to know” whether there would be a reduction.

‘Fair and equitable’ reduction in DB

Any reduction in DB has to be ‘fair and equitable’. However, this is far more complex than one would imagine. For example, if someone near retirement age has their pension reduced by 5%, the impact is far heavier than that on someone who has time to recoup this loss over the rest of their working life. There is also the complication that certain categories of people (eg, people on a Commercial Rate of index [CRIP] pension) cannot have their pension reduced.

![Figure 1: ABI and VBI Levels for Unisuper 1991-2011](source: Unisuper 2011)

**Why I voted for the Clause 34 Amendment**

I listened closely to the arguments for and against this amendment, and ultimately voted in favour, although there were some strong dissentents. The amendment does not alter the requirement for the 100% (ABI) or 95% (VBI) activation of an actuarial investigation nor does it change the ‘fair and equitable’ rule. The crucial changes to the wording were:

- to specify that an actuarial investigation must occur if the ABI/VBI mark is breached
- the words “insufficient funds” were replaced with the specific 100/95 amounts
- The phrase ‘must reduce the benefits’ left the management with no option if the ABI/VBI were breached. Instead, the words “must consider whether to [reduce benefits]” were proposed.

I believe that the changes provide a clearer indication of when an actuarial investigation must take place and also provides the management with more flexibility to act. Forcing the hand of
management to reduce benefits, I believe, is a little like mandatory sentencing (which I oppose) as it
does not allow those with most information and expertise to respond in the best interest of all
stakeholders.

Bernard McKenna
13 December 2011