



Domestic Data Protection Team
DCMS

17 November 2021

By email to DataReformConsultation@dcms.gov.uk

Dear Domestic Data Protection Team

DCMS consultation – Data: A new direction – USS response

The Universities Superannuation Scheme (USS) welcomes the opportunity to respond to the DCMS consultation on *Data: A new direction*.

By way of background, Universities Superannuation Scheme was established in 1974 as the principal pension scheme for universities and other higher education institutions in the UK. It has more than 475,000 members across 340 institutions and is one of the largest pension schemes in the UK, with total fund assets of £82.2 billion (as at 31 March 2021).

The scheme's trustee is Universities Superannuation Scheme Limited, a corporate trustee which provides scheme management and trusteeship from its offices based in Liverpool and London in the UK, and we are supervised in terms of conduct and financial reporting by The Pensions Regulator (TPR). The trustee company delegates implementation of its investment strategy to a wholly-owned investment management subsidiary company - USS Investment Management Limited - which provides in-house investment management and advisory services. The purpose of the trustee company is to work with higher education employers to build a secure financial future for our members and their families.

As a non-commercial entity, our concerns relate to question 2.4.9 in the consultation document, regarding the extension of soft opt-in. Further details are set out in our response to this question below.

Q2.4.9. To what extent do you agree that the soft opt-in should be extended to non-commercial organisations? Please explain your answer, and provide supporting evidence where possible.

We strongly agree that the soft opt-in should be extended to non-commercial organisations.

The Scheme is a hybrid scheme (providing both defined benefit ('DB') and defined contribution ('DC') benefits), and has a responsibility to ensure its members understand their pension benefits and options, so they can make appropriate financial decisions now and for the future. This is of particular importance for our members with DC benefits, where the value of their DC savings at retirement is not guaranteed and is driven (in part) by the choices members make (e.g. investment

Universities Superannuation Scheme Ltd

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decisions from a fund range selected by the trustee, the amount of contributions paid into the DC section etc.).

The Communications and Reporting section of the DC Code issued by TPR, sets an expectation that trustees should regularly communicate with members so they are informed of their options and can plan for retirement. By way of example, *“good member communications, provided at the right time and in the right format, are vital if members are to engage and make decisions that lead to good outcomes in retirement. Members will need to make informed choices when they reach retirement and trustees have an important role in preparing members to make these choices.”*

USS is used by the scheme’s employers to satisfy their auto-enrolment obligations. This presents challenges for USS in terms of obtaining marketing consent at ‘point of joining’, as, under auto-enrolment, employees are made members of the scheme by their employers without needing to request this. It also arguably makes it more important for our members that we communicate key pensions information which could have a direct impact on the pension value that members have at retirement such as investment options, paying additional contributions and retirement planning as they have not actively chosen to join the pension scheme and therefore may not proactively engage with their options (though they can opt out of the scheme).

The ‘value-add’ content we look to provide to our 489,000 members includes key information such as how their pension works, how to make additional contributions, how to access guidance/support, and links to online resources such as pension benefit modellers and educational videos. To date, only 6.6% of our 205,000 active members have opted-in under the current opt-in requirements which by their nature look similar to requests to opt in to marketing information for members’ other online activity. This opt in rate means the very large majority of our members are not able to be electronically served with information to help them make sound financial decisions, and which is in line with our regulator’s expectations. To provide further context, we have on average 30,000 new joiners each year, of which c.15% opt out of their pension and it is possible that allowing easier access to material that assists in making such a decision would result in more of them retaining valuable scheme retirement benefits.

USS is not a commercial entity by any standard definition. We do not have customers, we are not for profit, we do not “sell” our services and, in most cases, we do not manage that first point of engagement with members. This all means that on a strict interpretation of PECR, we do not currently qualify for soft opt-in. Therefore, we have to rely on members choosing to opt in before we are permitted to communicate ‘value-add’ by email – and given that we can’t advertise the value of opting in through our standard service emails, it is exceedingly difficult to obtain this consent through organic channels.

As a result of the above, balancing our TPR communication responsibilities within the current requirements of the Privacy and Electronic Communications Regulation (PECR) has been a key concern of both the executive team and the trustee board for several years. We have taken legal advice to ensure we understood our obligations and explored with advisers what we could and couldn’t do whilst remaining compliant as the legislation has materially impaired our ability to communicate with the member base. We have over several years significantly improved our website, member portal and online functionality and have worked to maximise the number of members with an online account to enable them to benefit from these changes. It would significantly increase the impact of this investment to assist our members if the current opt in requirements were amended.

Our position is that the proposal to extend soft opt-in to non-commercial entities should also specifically cover information gathered via auto-enrolment for pension schemes. This change would enable corporate trustees (such as the trustee of USS) to communicate with their members by email as soon as they join a pension scheme. We believe that there are key benefits in this, as it would ensure that both new and existing members can be provided with a range of information, which in turn will at a very early stage support their understanding of their pension and of the options for managing it.

We hope that the above comments are helpful. Please let me know if we can provide any further information or assistance as you consider next steps in this area.

Yours sincerely

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