OCUFA
Ontario Confederation of University Faculty Associations
Union des Associations des Professeurs des Universités de l'Ontario

January 19, 2011

Dear Faculty Association President:

RE: UPDATE ON PENSIONS IN THE UNIVERSITY SECTOR

OCUFA has been an active participant in pension reform since the first consultations of the Arthurs Commission through to the most recent draft regulation proposed for the university sector by the Ministries of Finance and Training, Colleges and Universities. The government is now clearly focusing on the university sector and is prepared to drive changes to university pension plans, which may alter the funding, design and governance of our plans.

The question is whether there are opportunities presented by the current environment to further our own pension agenda. Our interest is in preserving our pension plans, expanding coverage to excluded university workers, keeping the plans affordable and maintaining and improving our benefits. Our challenge is to assess the sustainability of our plans so that we can resist government proposals which we may not agree with.

I am therefore writing to you with some urgency to give you an overview of pension reform in Ontario. Some of this was reported to faculty association representatives last November at OCUFA's pension workshop. But there are significant developments since then.

We hope that you will share this letter with your Faculty Executive Committee, Pension Committee members and general membership.

1. BACKGROUND:

Many pension funds locally and globally now face funding shortfalls. For some plans, this is a result of the financial markets crisis in 2008-9. For others, years of plan mismanagement and poor governance have also contributed. This may mean short-term pain for some pension plans or longer-term damage for others. These shortfalls inevitably raise the question of the sustainability of pension plans, particularly given a slow economic recovery, low interest rates and stagnant equity returns.

The difficult fiscal situation of the province is part of the context in which pension reform is currently being considered. Indeed, the province has made clear that the current interest in

83 Yonge Street, Suite 300, Toronto, Ontario M5C 1S8 • T 416 979-2117 • F 416 593-5607 • E ocufa@ocufa.on.ca • W www.ocufa.on.ca

funding and governance reform of university pension plans is driven by a concern to contain the costs of university funding. However, its notion of sustainability also includes some ill-defined idea of joint sponsorship or 'one big plan' which many employer and employee groups oppose.

For these reasons, OCUFA has brought together a university union pension coalition or working group, most members of which attended our pension workshop in November, and whose objective is to get funding for a major project to study the sustainability of pension plans in the university sector. You may know that the Council of Ontario Universities received funding from TCU for a preliminary study. Since then, the Coalition has agreed to meet tri-laterally with both ministries (Finance and TCU) and the COU to develop an agreement on complimentary research and data-sharing with a view to moving towards sustainability.

In the following sections, I bring you up to date on pension reform initiatives which may go some way towards explaining why governance has now become inextricably linked to plan funding and the political struggle over the meaning of 'sustainability'.

2. FUNDING

Solvency valuations are one of the measures used to fund pension plans. In Ontario, despite lobbying, employers and administrators of employer-sponsored pension plans, including university administrators, have been unsuccessful in winning a total exemption from solvency payments. The argument proposed by university employers is that since universities are publicly funded and own considerable property, their plans would not wind up. The Arthurs Commission maintained that looser funding rules should require the agreement of plan members directly or through their bargaining agents or group representatives since they are most affected by the decision.

The government as well as private sector employers, as you can imagine, have also been unsympathetic. The government, under extreme pressure from the private sector, has made it clear that it is not prepared to be the backstop for university pension solvency payments. The Ontario budget of 2009 introduced an extension (from five to ten years) of the amortization period for solvency payments for employer-sponsored pension plans with the consent of plan members or their bargaining agents. Bargaining agents were to provide consent for the active members that they represent.

In 2010, in spite of pressure from the private sector, the government gave total exemption from solvency payments to jointly sponsored and multi-employer plans only, on the grounds that plan members have an institutional voice through representation on boards of trustees. However, in 'framework' legislation, the government introduced a new type of plan – a 'public sector pension plan' – with as yet an undefined design and permitted the use of letters of credit to satisfy up to 15% of plan liabilities for as yet un-designated pension administrators. These as yet unclear definitions may be targeted at the university sector.

In addition, both Finance and TCU have floated the idea of a plan for pension sustainability to be developed by university employers. If the regulator approves the 'plan', there would be a three-year window, when only the interest on the solvency payments owing is paid. Solvency payment amortization over ten years would then be available to universities with a sustainability plan including metrics of a 50/50 cost sharing of contributions between employers and employees, an increase in contribution levels and conversion to a defined contribution or joint sponsorship arrangement. Consent by plan members, or their unions, it appears, may be scrapped. University administrators may win three years with no accountability for pension financing.

The Coalition of University Unions has opposed this proposal and several unions, including OCUFA, have written letters in protest. It is not yet in force. It is due to be posted on the Ministry of Finance website 'for comment'. Already, at least one university has behaved as if this proposed regulation is reality and has withdrawn a solvency payment amortization proposal from the table. The Coalition, following the views of participants at OCUFA's pension workshop, has proposed to TCU that the metrics of the sustainability plan be dropped but that the regulator provide for a 3-year window during which time bargaining agents work with employers to put into place clear long term strategies for all university pension plans.

3. PLAN GOVERNANCE

The university sector is entirely populated with employer-sponsored pension plans, which, compared with jointly sponsored and multi-employer plans, lack, in Professor Arthur's words, 'checks and balances' in their decision-making. On the other hand, jointly sponsored and multi-employer pension plans have representation of plan members on their boards, which, as a consequence, may reasonably be expected to balance the interests of plan members and the employer with the interest of that of the plan itself.

In other words, plan affordability is balanced with benefit security.

The clear message is that jointly governed plans will be accorded less stringent funding rules. This is why jointly sponsored and multi-employer pension plans have been granted total exemption from solvency payments and have no coverage in the Pension Benefit Guarantee Fund.

The consequences for the university sector of this lack of symmetry in governance are that university administrators are treated much like corporate (private sector) sponsors. Solvency valuations and payments are required and university plans must continue to pay remittances to the Pension Benefit Guarantee Fund which funds a percentage of workers' pensions when their plans have wound up.

Yet, university plans are a bit of an anomaly with respect to governance. All universities have pension committees with representation of plan member groups, associations and unions. While university multi-lateral pension committees are advisory (according to their terms of reference, if any), some members report a substantial level of autonomy in decision-making through their Pension Committees. Indeed, some members argue that their plans are jointly governed.

However, pension committees do not always work democratically. In good times, university administrators may be less willing to discuss surplus allocation with union representatives than they are in bad times willing to discuss liabilities. And pension committees seem not to have been able to prevent the worst cases of mismanagement of pension funds. Maybe of most concern is the lack of coordination, in some cases, between bargaining committees and pension committees, and the lack of clarity (despite terms of reference) attached to the role of these committees with respect to pensions. In the university sector, we need a broad-based discussion about how useful pension committees may be. At the very least, we may want a 'best practices' checklist for pension committees so that faculty associations can work with other groups and unions to strengthen pension committees where there is a consensus that they can work and disband them where they do not.

4. PLAN DESIGN

Plan design shapes governance roles and responsibilities. For example, multi-employer pension plans (prevalent in the private sector construction industry) may reduce benefits when the economy slumps and the pension fund is diminished. MEPP boards have at least 50% union representation and plan members or their representatives therefore participate fully in the decision – which sometimes has to be made – to reduce benefits. Jointly sponsored plans, on the other hand, cannot reduce the defined benefit; but sponsors are obliged to make up deficiencies through higher contribution levels and/or special payments.

The Arthurs Commission proposed a new type of pension plan - a jointly governed target benefit plan - where:

- benefits are determined through collective bargaining;
- plan members or their unions have access to decision-making;
- benefits may be reduced (like a multi-employer pension plan);
- the employer retains (single employer) sponsorship; and
- there are less stringent funding rules.

In the 2010 budget, the government flagged that new pension law would provide funding relief for single-employer public sector pension plans on both a permanent and/or temporary basis, provided plans are restructured to provide for joint risk-sharing and joint decision-making and that innovative plan designs be encouraged. Target benefit plans are now law.

The university sector is also home to less typical plan designs called 'hybrid' and there are eight in the university sector. There has been to date little regulation for hybrids. The design is, to some extent, a compromise between a defined benefit (DB) and a defined contribution (DC) plan. Members seem to feel that hybrids have worked well in good times; it is less clear that they work for all members after the financial markets crash and in times that are more challenging for investment.

There are four defined contribution (DC) plans in the university sector. It is generally argued that DC plans transfer the risk for retirement income onto the shoulders of plan members. Again, good times mask the level of risk that plan members actually take on not the least of which is the management expense fees.

The question for OCUFA members is whether there are plan design changes that are affordable and that work more in the interests of plan members.

5. PENSION COVERAGE

The portability of pensions is important to OCUFA members. While COU agreed to create an Ontario University Pension Transfer agreement in its working group report of February of 2010, it is unclear whether COU continues to pursue this issue, given that permanent solvency exemption has not been delivered for the university sector.

A large and growing proportion of workers in the university sector have no pension coverage. The large Ontario pension plans view the broadening of membership scope as an opportunity to offset the liability of shrinking plan memberships; however, university employers have not been similarly willing to extend pension coverage to sessional instructors and others. While OCUFA argued that the legal bars to pension plan coverage should be lowered, neither the Arthurs Commission nor the government chose to make it easier to negotiate coverage for part time workers in our sector.

The question for OCUFA members is whether we can win pension rights for all workers in the university sector in spite of the lack of regulatory change.

We hope this has been a useful review of pension developments affecting the university sector. We also hope to keep in close touch with faculty associations to see best how to further a pension agenda that is in plan members' interests. We are in the process of developing a listserv which will enable more comprehensive communication on pensions among faculty associations and are planning a second workshop on pensions to be held in the Spring.

If you have questions about this letter please don't hesitate to call Donna Gray or Isla Carmichael at OCUFA.

Sincerely,

Professor Mark Langer, President, OCUFA

c.c. OCUFA Directors; Henry Mandelbaum, Executive Director; Isla Carmichael; Donna Gray.