bufdg british universities finance directors group

BUFDG CHAIR'S QUARTERLY

Vol 6: March 2021

Welcome readers!

Welcome to the sixth edition of our Quarterly bulletin, for those working in or with the Higher Education Sector. The big news for this edition is BUFDG's imminent Annual Conference, over five days from the 15th-19th March, which for the first time takes place online. This Quarterly is a 'Conference Special' - as well as an article introducing the new event format, we feature three articles from attending supporting organisations.

First, UMAL's Paul Cusition shares how the insurance landscape has changed over the last 12 months, and how universities should prepare. Then David Vallance from Tilney explains which of your staff are in the 'sandwich generation', and why they might need your special consideration. Finally, Duncan Gillespie from Pinsent Masons helps us get to grips with State Aid law post-Brexit.

Whether or not you're able to join us at this year's conference, we're hugely grateful to all our supporters, without whom the sector would be a less effective and efficient place!

Sarah Randall-Paley

Director of Finance, Lancaster University and Chair, BUFDG.

Get in touch...

Karel, Executive Director
karel@bufdg.ac.uk

Matt, Head of Membership
matt@bufdg.ac.uk

Amanda, Digital Content Manager
amanda@bufdg.ac.uk

Andrea, Tax Specialist
andrea@bufdg.ac.uk

Julia, Employment Taxes Specialist
julia@bufdg.ac.uk

Rachel, Learning & Development Manager
rachel@bufdg.ac.uk

...and at PHES:

Dominic, Executive Director
dominic@phes.ac.uk

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Conference 2021 is nearly here!

It has been a long wait - with lots of ups and downs in the meantime - since the last Annual Conference way back in March 2019, at Royal Holloway, University of London. Those who were present will have memories that may now seem to belong to a different life, but hopefully it is a life we will be able to resume, albeit with some differences remaining, in just a short while now.

Not short enough however for BUFDG 2021, which will take place in just two weeks' time, from the 15th-19th March, entirely online on the *Hopin* conferencing platform. We often read we should look for the silver linings in the clouds, or turn threats and disruptions into opportunities, and it can be easier said than done. Yet for Conference '21 we have embraced that philosophy and taken the opportunity to try out a very different kind of event.

On the 15th March we'll welcome over 800 delegates from 130 universities – plus 150 sector supporters and speakers – to possibly the largest ever event about finance in UK Higher Education. An online conference means there are fewer restrictions on size (we don't have to fit everyone into a physical space, for example, and institutions don't have to pay for staff travel), so we have been able to make it more accessible to a wider range of staff, and provide more value to institutions as a result.

Attendees can choose from a programme of over 50 sessions across the five days delivered by an outstanding collection of speakers, covering a huge range of finance topics. We don't expect that every delegate will attend every session (even if that were possible), so each session will be recorded, and made available to attendees the day after they are live, via the BUFDG website.

From 5pm and 8pm on the Wednesday and Thursday delegates can also join in with a range of social/networking activities via Zoom, including magicians, quizzes, and an inspirational speaker.

We're excited about the possibilities of the event, and we're grateful to all those institutions and sector supporters who have backed the idea and agreed to attend. We look forward to welcoming you in a fortnight!

Matt Sisson and Ashley Shelbrooke

Conference 2021 Coordinators, BUFDG

Insurance should be on your radar

For many years, insurance has been an easy and painless purchase for Universities. Prices have been stable, and cover has been wide as the insurance market has been "soft". With the arrival of COVID-19 that has all changed. Hit by multiple losses and uncertainties over exposure, Large Reinsurers and Commercial Insurers have begun to apply significant pressure on pricing and introduced restrictions in cover.

The recent Marsh Insurance Brokers Quarterly pricing index shows UK pricing for commercial insurance prices rose 22% in the fourth quarter of 2020, the thirteenth consecutive quarter of price increases. This fourth quarter

rise in pricing was also the largest year-over-year increase in the Marsh Global Insurance Market Index since its inception in 2012. *

And it's not just pricing where insurers are changing their underwriting approach. All insurers are applying the brakes on the amount of capacity they deploy and the cover they offer. Long-term agreements and relationships are being broken – and not because of poor claims experience. Emboldened by COVID-19 as a catalyst, we are seeing a return to the post 9/11 underwriting landscape of 2002, when the insurance market imposed substantial price increases and cover restrictions to correct or counter many years of soft market conditions and lax underwriting. There are no immediate signs of this relaxing.

"...it's not just pricing where insurers are changing their underwriting approach. All insurers are applying the brakes on the amount of capacity they deploy and the cover they offer"

How does this manifest itself for UK universities? With prices increasing, insurers no longer need to chase new customers to achieve top line growth. By increasing prices and reducing cover, they end up with more revenue for less exposure, and of course fewer claims.

Some household named insurers are increasing their base rates by 100% in some instances, even for cases with a reasonable or good claims record. The ubiquitous "Long Term Agreements" (LTAs), held out by insurers as fixed deals, are being cancelled by insurers as they seek to apply rate increases.

Aside from rate increases insurers are also restricting cover and reducing the amount of capacity they are deploying. In practical terms this means the policy limit or amount of cover offered. Most notably this is happening on property insurance as insurers seek to reduce limits to reduce their exposure and reduce their reinsurance costs.

So, what should you do? Prepare for your renewal on 1st August 2021 now. Ask your broker or insurer for an early indication of renewal terms and details of any major changes in cover, or indeed if your insurer is going to even offer renewal terms. We've seen this in the sector already, and UMAL have provided alternative renewal terms, fixed at 1st August 2021 for three years, for several Universities who have been given some unwelcome advance notice of substantial rate increases from their existing insurer.

Should you find that timescales are short however, remember that UMAL's Teckal exemption means there is no need to go through an expensive and time-consuming public tender process. As a mutual member organisation, our application process and underwriting are simple, streamlined and straight forward.

Paul Cusition, Chief Executive, UMAL (the HE Sector Insurance Mutual)

**Source: Insights February 2021 - Marsh Global Analytics*

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The sandwich generation and financial wellbeing

Around 1.3 million people in the UK* have the double responsibility of looking after children under the age of 18 and caring for elderly parents. This number mostly includes people between 40 and 50 years old.

Due to the increase in life expectancy and for some, the delay in starting a family as they have chosen to focus first on establishing their career, the numbers in this 'sandwich generation' can only get higher.

"Just as you're told to put on your own oxygen mask first in an airline safety demonstration, the same goes for being a part of the sandwich generation – they need to look after themselves before they can look after their loved ones."

The costs involved - Caring for parents comes with unplanned additional costs and a pressure on time to help shop, cook, clean and provide transport for appointments. For many people, this leads to requests for flexible working hours, a permanent reduction in hours or even leaving work altogether. The latter two options would of course lead to a reduced income or their income from employment stopping completely.

Looking after your staff - Just as you're told to put on your own oxygen mask first in an airline safety demonstration, the same goes for being a part of the sandwich generation – they need to look after themselves before they can look after their loved ones.

It might be tempting to reduce or stop any pension contributions, but where possible, if they can continue, it makes sound financial sense. They could end up caring for their parents for many years and if they are not paying into their pension during this time, it could have a massive impact on their own retirement plans.

Thinking about your mental health - In the midst of looking after other people, it is essential that they look after their mental health as well as their physical health. The pressures of being a part of the sandwich generation cannot be understated. Many life insurance providers have helplines available to their policy holders where they can talk about how they feel and get the support they need. When taking out an insurance plan, they should look to see if this is one of the benefits to their policy.

Financial Wellbeing & the cost-saving agenda - Last year a significant number of the Universities Tilney are involved with asked their staff to consider flexible, part-time and / or early retirement, but there can be barriers.

1. State pension age has been pushed back. Staff feel they need to work on until state pension age to potentially significant detriment to their mental and physical health.
2. Pension scheme changes. The shift from final salary to CARE and/or money purchase schemes means people don't feel they can retire early.
3. Actuarial reduction. Going early many don't feel they can take the hit.

Our work tells us those in higher education often think they need to work on longer than they actually need to. A consultation with a

Tilney financial planner can shine a light on their pension provision and provide ways of approaching changing working patterns or early retirement. They can also work with the whole family and steer a productive discussion to establish a way forward that is agreeable with everyone.

This is an abridged article – readers can find the full blog on the BUFDG guest blog page.

David Vallance, Director & David A Smith, Director, Tilney Financial Planning Ltd

* *Source:* Veritas Care, *2019; ** Source:* Royal London, *2019*

State Aid rules and subsidy control

The Implementation Period following the withdrawal of the UK from the EU came to an end on 31 December 2020. This means that EU State aid law no longer applies to financial assistance provided by UK public authorities.[1] However, under Chapter 3 of Title XI of Part 2 (the **"Subsidy Control Chapter"**) of the Trade and Co-operation Agreement between the European Union and the UK (the **"TCA"**), the UK has undertaken to implement an effective subsidy control regime in its territory embodying the principles set out in the Subsidy Control Chapter (the **"Subsidy Control Principles"**).

These principles require that a subsidy must:

1. pursue a legitimate policy objective;
2. be proportionate and limited to what is necessary to achieve that objective;
3. be designed to bring about a change of economic behaviour of the beneficiary conducive to achieving the objective that would not have been achieved without the subsidy;
4. not normally compensate for the costs the beneficiary would otherwise have funded;
5. be an appropriate policy instrument to achieve the objective which could not have been achieved through other less distortive means; and
6. make a contribution to achieving the objective that outweighs any negative effects.

On 3 February 2021, the Department for Business, Energy and Industrial Strategy (**"BEIS"**) issued a consultation document on the design of the new UK system of subsidy control. This is likely to mean that the Government will enact legislation to create a subsidy control regime in the UK. Until then, however, the Subsidy Control Chapter takes effect as domestic law by virtue of Section 29 of the European Union (Future Relationship) Act 2020.

[1] Other than where there might be an affect on trade in goods and electricity between Northern Ireland and the EU, in which case EU State aid law would apply by virtue of Article 10 of the Northern Ireland Protocol to the EU:UK Withdrawal Agreement.

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Nevertheless, it should be noted that the Subsidy Control Principles are only relevant where a particular public intervention meets the definition of a "*subsidy*" in the TCA. As with the definition of "*State aid*" under EU law, there are four elements to the definition of "*subsidy*" under the TCA:

- First, the measure must involve a financial contribution by a public authority, in the form of a grant, loan, guarantee or other form of financial assistance, such as forgoing of revenue that would otherwise be due.
- Secondly, the measure must confer a benefit upon an "*economic actor*" – i.e. an entity supplying goods or services on a market – that would not have been obtainable under normal market conditions.
- Thirdly, the subsidy must be "*specific*", meaning that it "*benefits a particular enterprise, or enterprises in a particular sector, industry, or region*"; and
- Finally, the subsidy must have the potential to affect trade or investment between the UK and the EU.

The definition of a subsidy is therefore virtually identical to that of a State aid, so a public intervention which would have been a State aid is likely to also be a subsidy for the purposes of the Subsidy Control Chapter. However, even if there is a subsidy, Article 3.2(4) of the Subsidy Control Chapter provides an exemption where the total amount granted to a single economic actor is below 325,000 Special Drawing Rights [approximately £344,000] over any period of three fiscal years.

Remedies

The TCA commits the UK to ensuring that domestic courts or tribunals have the competence to review the compliance of subsidy decisions with the Subsidy Control Principles and to review relevant decisions by the independent regulator that the UK is obliged to establish, including that regulator's failure to act. The remedies available in this context must include orders suspending, prohibiting or requiring that a specific action be taken, as well as the award of damages and the recovery of the subsidy from the beneficiary.

"...financial support for commercial activities of universities, or to commercial organisations channelled through universities, may well be caught by the new subsidy control rules as it was by the previous State aid law"

The position is somewhat different when it comes to subsidies which are granted by means of primary legislation – i.e. the grant of a subsidy on the basis of an Act of the UK Parliament, but not that of the assemblies or parliaments of devolved administrations, is expressly exempt from recovery under the TCA. As set out above, the term "*subsidy*" applies to a financial benefit given by the State to an "*economic actor*".

As is well known, under EU State aid law, universities are not regarded as undertakings when carrying out their primary role of teaching and independent research. We do not expect this to change under the new UK

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subsidy control regime. On the other hand, financial support for commercial activities of universities, or to commercial organisations channelled through universities, may well be caught by the new subsidy control rules as it was by the previous State aid law.

However, one potentially positive note is that the (non-legally binding) joint declaration accompanying the TCA states that subsidies may be granted for research and development activities if they are necessary, proportionate, and do not have as their main purpose or effect the transfer or closure of such activities in the EU. Subsidies may also be granted in connection with other initiatives, such as for new production processes, relevant infrastructure, innovation clusters and digital hubs. The amount of subsidy should reflect, amongst other factors, the risk and amount of technological innovation involved in the project, how close the project is to the market and the project's contribution to knowledge generation.

Detailed guidance on the application of these criteria, along with the other aspects of the new UK subsidy control regime, is eagerly awaited.

Duncan Gillespie, Consultant, Pinsent Masons LLP

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