From: LAWPROFS - Discussion List for Law Professors <LAWPROFS@LISTS.MCGILL.CA> on behalf of Robert Leckey, Prof. <robert.leckey@MCGILL.CA>
Date: Thursday, August 22, 2024 at 11:17 AM
To: LAWPROFS@LISTS.MCGILL.CA <LAWPROFS@LISTS.MCGILL.CA>
Subject: McGill Pension Plan

Dear colleagues,
Provost Manfredi and Vice-President Labeau have asked me to share the text below with you.
Best,

Robert

The document recently posted by AMPL entitled **McGill's Pension Plans: A Comparative Summary** contains numerous factual errors, omissions and misrepresentations regarding the McGill University Pension Plan (MUPP) and its administration. The document also contains broad statements about pension plans in general in which the information provided is often incomplete and lacking relevant factors and considerations. The document below focuses on correcting the most significant errors with respect to the MUPP and its governance and provides further information and context with respect to the types and the comparison of pension plans more generally. Statements in bold are quoted directly from AMPL's document.

"So, for example, Individuals retiring in 2009 with a pure defined contribution plan would have had about half the retirement funds available for retirement than they had in 2007."
For members who were invested in the Balanced Account under the MUPP (approximately 80% of Plan members) at the end of 2008, a -14.9% return was experienced which is far better than the -50% suggested above. In the following year, the Balanced Account experienced a +14.2% return followed by a +12% return in 2010 which more than offset the decline in 2008.

"...in a defined benefit plan, the employer guarantees a minimum payment or income at retirement – usually 70% the average salary of the employee's five best years in terms of earnings..."
70% is the maximum permitted under legislation and is not "usual".

"While Plan A is superior to Plan B, both are significantly below the standard of plans at other leading universities and law schools..."
In comparing one pension plan to another, one must consider multiple factors and not make an assessment on a single dimension. A defined contribution pension plan may, under favourable circumstances, outperform the values generated under a defined benefit arrangement.

While it is true that members bear the risk of market losses, they also reap the benefits of market gains. Since the start of the hybrid pension plan design in 1972, most retirees would have seen their defined contribution account balances outperform the defined benefit minimum, although during periods of low interest rates, the defined benefit minimum provisions of the MUPP have yielded higher values than the defined contribution component, benefitting those receiving a supplemental value.
While it is true that other employers may contribute a higher % towards the pension plan than is the case under the MUPP, it is equally true that employee contribution rates may also be higher. In the example cited, there is no mention of the fact that in the U de M plan, members contribute 8.55% of earnings up to the Year's Maximum Pensionable Earnings (YMPE) which increases to 11.05% for earnings above the YMPE. Under the MUPP, excluding deficit cost-sharing contributions for Part A members, all employees above age 50 contribute 6.2% up to the YMPE and 8% above. Depending on what age a member first joined the MUPP, the career average contribution rate would be lower than these values for most if not all members.

In sum, although the U de M plan may provide a higher payout at retirement, a true comparison should also take into consideration the value of employee and employer contributions required throughout a member's career.

“1 The estimate is based on, roughly, the value of a DB plan less the cost to McGill retirees of buying a guaranteed annuity at retirement (an annuity takes on the risk in a manner similar to a DB plan) subtracted from the value of a DC plan using favourable market assumptions.”
The assumption that members will buy an annuity at retirement does not reflect the experience under the MUPP. Most retirement settlements consist of transferring holdings into either a Life Income Fund or taking advantage of the Variable Benefits option, introduced in 2020, which allows retirees to draw an income stream directly from the MUPP for life. The cost-efficient decumulation options offered under the MUPP at retirement are not factored into the analysis.

“Maintaining two distinct types of plan based on time of hiring, as McGill does, is not common. It makes plan management significantly more complex, and in Québec, such arrangements have been illegal since 2018.”

It is not uncommon for defined benefit plan types to change pension benefits formulas over time or for plan members to participate in a defined contribution plan following the closure of a defined benefit plan type with the same employer.

It is widely known that institutions across North America and beyond have been shifting over the past few decades to defined contribution pension plans. What may be less “common” is that McGill is maintaining the defined benefit component of the MUPP for those hired under it. The goal is to avoid changing the pension benefits that employees were offered at their time of hire, not to penalize any group.
Contrary to the assertion that “such arrangements are illegal since 2018”, this change in legislation does not apply retroactively. Amendments introduced in the MUPP in 2009 were compliant with applicable legislation in Québec and continue to be so.

“…it is very difficult to obtain details from McGill about the MUPP. Many other universities and public institutions publish financial records online and/or provide them directly to faculty associations.”
McGill shares MUPP information widely and in a number of ways, including:

- An annual general meeting to which all plan members are invited. Financials of the plan as well as amendments and other topics are covered
- A copy of the slides used and highlights from the meeting are posted to the web for the benefit of members who were unable to attend: https://www.mcgill.ca/hr/pensions/mupp/committee/pension-plan-annual-meeting
- Copies of the audited annual financial statements of the Plan are posted online and accessible by all with no password requirement: https://www.mcgill.ca/hr/pensions/mupp/invest/reports
- The Plan document is available online and accessible to all members by using a McGill password: https://www.mcgill.ca/hr/pensions/mupp/committee
- All notices of amendment are posted on-line and provided to active members via e-mail
- Members are consulted prior to amending the plan
- Plan members may examine other plan documents by booking an appointment during normal business hours (Monday to Friday from 9:00 a.m. to 5:00 p.m.) in the offices of the Pension Administration Committee.
- Upon request, members can examine copies of the plan document as it existed for earlier periods during their participation in the MUPP
- Information sessions regarding the MUPP and retirement planning are regularly held throughout the year: https://www.mcgill.ca/hr/pensions/mupp/sessions

Plan documents were made available to the AMPL executive on several occasions.

“The minimal involvement of employees and bargaining agents in McGill’s plan management is also well outside the norm in the Canadian university sector: in a 2021 CAUT study, 68% of defined benefit plans involved trustee boards with members appointed by employees and/or unions. This lack of stakeholder involvement and limited disclosure increases the risk of concealing mismanagement, errors, or other financial problems with the MUPP.”

The MUPP is overseen by the equivalent of a board of trustees, defined in Québec as a Pension Committee. In full compliance with Québec Pension Plan legislation, the MUPP is overseen by the Pension Administration Committee (PAC) https://www.mcgill.ca/hr/pensions/mupp/committee, whose members bear the fiduciary responsibility to represent the interests of the plan members. The PAC is comprised of nine members, of whom four are elected by the Plan members, four are appointed by the University and Board of Governors (BOG) and one is independent (required by law). Any plan member is eligible to run for election to the PAC. Parity in representation has been a cornerstone at McGill for the MUPP.

"The terms of the plan can be changed at any time at the discretion of the university."

Whether an amendment is required for legislative compliance purposes or for the sustainability of the plan, the Board of Governors (BOG), not the University, may amend the MUPP. This process is prescribed within the regulations of the BOG.

- Proposed changes are brought to the Board at the recommendation of the PAC
- Prior to any Plan amendment, consultation is prescribed, per Board regulations, and discussions are held with all associations / unions and members of the Plan