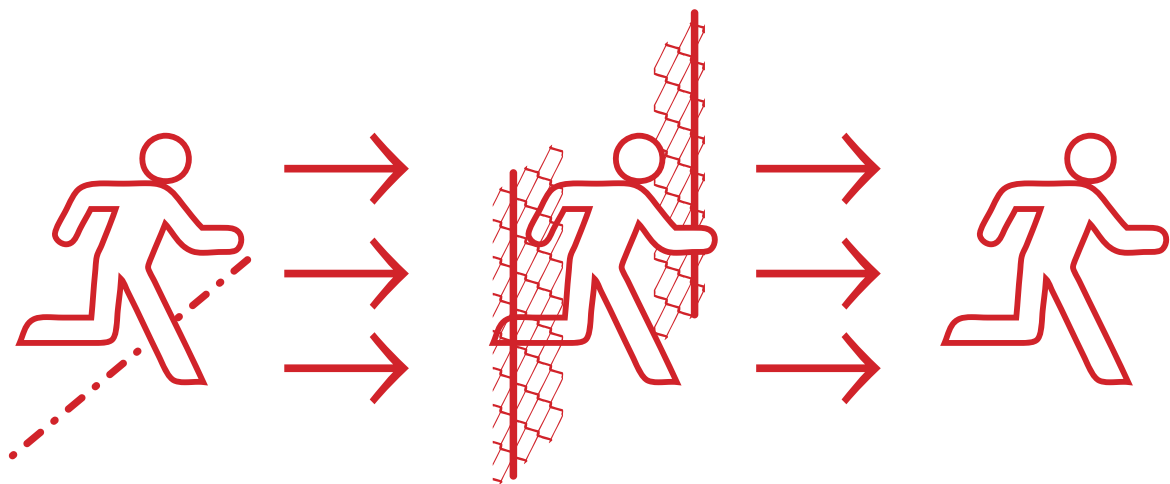


Help call on  
UniSuper to divest  
from the detention  
industry.

An information package on detention  
divestment for UniSuper members.



[unisuperdivest.net](http://unisuperdivest.net) | September 2015

# In the wake of HESTA's decision to divest from Transfield, the spotlight is on UniSuper!

## The goal

Our goal is a statement from UniSuper that it has a policy of not investing in companies involved in the detention industry, and on the basis of this policy it will divest its holdings in Transfield Services as well as other companies such as Decmil and Serco. That policy can be based on available ESG criteria and requires nothing more than UniSuper has already done in other cases.

- It is inaccurate that UniSuper is no longer invested in the detention of asylum seekers. UniSuper is entangled in the detention network in a number of ways (as outlined below).
- UniSuper has consistently refused to rule out re-investing in Transfield Services. UniSuper must commit to no holdings now, and no holdings ever, in mandatory detention.
- The NTEU has clear direction from its members to pursue the campaign of divestment.<sup>1</sup>

We suggest that UniSuper members, including members of the National Tertiary Education Union (NTEU) and Community and Public Sector Union (CPSU), academics, and general staff at universities, call on our super fund to implement a policy of screening out detention investments in the same way it screens out investments in tobacco.

1 See NTEU members' divestment motions and motions from student unions here: <https://xborderoperationalmatters.wordpress.com/2014/03/19/nteu-usyd-divestment/>  
<https://xborderoperationalmatters.wordpress.com/2014/04/11/nteu-uni-super/>  
<https://xborderoperationalmatters.wordpress.com/2014/08/19/uni-of-melbourne-student-union-passes-motion-in-support-of-divestment-transfield-unisuper-nteu/>

## UniSuper's entanglements in detention

As at 2 September 2015, UniSuper has confirmed that members' retirement savings are invested in Decmil. Decmil was contracted by the Australian Government in December 2013, under a contract valued at over \$285 million,<sup>2</sup> to construct an expansion to the detention centre on Manus Island.<sup>3</sup> This is in addition to previous infrastructure work for the 'transit' centre in East Lorengau for asylum-seekers whose refugee status has been determined in the positive.<sup>4</sup>

UniSuper also has questionable links with Transfield Services. One of the three 'independent' Directors on the UniSuper Board, Ian Martin, is also the Chair of UniSuper's Investment Committee, which is tasked with appointing and monitoring investment fund managers and determining UniSuper's investment policy.<sup>5</sup> Additionally, Ian Martin is the Chair of Argo Investments Limited – one of the top ten investors in Transfield.<sup>6</sup> Entanglements such as these illustrate what the Australian Financial Review means by 'independent' Directors of super funds.<sup>7</sup> The FinReview is owned by Fairfax Media, whose second-largest shareholder (i.e. Allan Gray) is the largest shareholder in Transfield Services.

2 <https://www.tenders.gov.au/?event=public.cn.Amendment.view&CNUUID=44E7E3CD-A67D-1C76-05FFFC8F955C-2B9A>

3 Decmil Group Limited, 18 December 2013, "Decmil Group Limited awarded second major Manus Island contract", <http://www.decmil.com.au/dmwp/wp-content/uploads/2014/04/DGL-Awarded-second-major-Manus-Island-contract-FINAL.pdf>

4 Ibid; also see <https://www.tenders.gov.au/?event=public.CN.Amendment.view&CNUUID=82A26804-F657-9E92-0553470E429BBB45>

5 <https://www.unisuper.com.au/about-us/our-people/committees>

6 <http://markets.ft.com/research/Markets/Tearsheets/Business-profile?s=TSE:ASX>

7 Mather and Patten, 24 August 2015, "HESTA decision underlines case for independent super boards", *Australian Financial Review* <http://www.afr.com/personal-finance/superannuation-and-smsfs/hesta-decision-underlines-case-for-independent-super-boards-20150824-gj68bm#ixzz3jjE9baBa>

## A lack of current investments does not mean ongoing divestment

In a response on 2 September 2015 to a member query about divestment (see Appendix B), UniSuper states that it “currently has no exposure to Transfield.”

Firstly, as noted by CrossBorder Operational Matters: “... “[E]xposure” is a fractional, relative term. “Exposure” can become “smaller” due to an increase in overall amounts contained within a fund rather than any decrease in dollar amounts invested in a particular industry. It is therefore possible for “exposure” to decrease while the amount of money invested in detention companies has increased.”<sup>8</sup>

That is, “exposure” refers to a proportional figure of a fund’s overall investments and relates to the fund’s risk management strategies.<sup>9</sup> “Small” or “minimal” exposure does not mean no investments. Exposure is a separate question to whether or not a fund holds investments in mandatory detention.

Secondly, the reality of daily stock market movements is that shares are bought and sold every day. Indeed on 25 August 2015, a UniSuper spokesperson said: “I can confirm that we don’t have any shares in Transfield. We make a multitude of buy and sell decisions on many stocks every day.”<sup>10</sup>

This still leaves open investing in Transfield Services tomorrow. UniSuper has not committed to ongoing divestment from Transfield Services de-

spite strong calls by members of the fund to do so. UniSuper has also not divested despite rumours from third parties. In the NTEU’s *Advocate* magazine from March this year, Grahame McCulloch, the NTEU General Secretary and the Union’s representative on the Board of UniSuper, wrote an article titled “*Union moves to ethical investment of members’ funds*”. As CrossBorder Operational Matters has noted, the substantive article makes no mention of UniSuper or detention investments.<sup>11</sup> There is a note at the very end of the article as follows: “*Members may be interested that UniSuper which had a small indirect exposure to Transfield Services (a company involved in refugee detention) divested itself of this holding for commercial reasons in late 2014.*”

As discussed above, UniSuper members have no guarantee that our fund will not re-invest in Transfield Services.

**UniSuper has thus far resisted issuing a public statement regarding ongoing divestment from Transfield Services because they know there are legal consequences for making misleading or false statements.**

Nothing short of a statement from UniSuper itself can be believed: the fund has legal obligations to be accurate about its holdings in a way that statements from third parties are not.

8 <https://xborderoperationalmatters.wordpress.com/2015/03/25/nteu-statement-on-unisuper-investments-in-detention-highered/>

9 <https://xborderoperationalmatters.wordpress.com/2014/03/20/unisuper-divest/>

10 Mather, 25 August 2015, “NGS Super dumps Transfield Services on ‘moral grounds’”, *Australian Financial Review* <http://www.afr.com/news/ngs-super-dumps-transfield-services-on-moral-grounds-20150825-gj72tm#ixzz3lR0zc3uf>

11 <https://xborderoperationalmatters.wordpress.com/2015/03/25/nteu-statement-on-unisuper-investments-in-detention-highered/>

## UniSuper must screen detention contractors from its mainstream investment portfolio

The letter from UniSuper on 2 September 2015 makes claims which fundamentally contradict its own existing policies and practice in relation to ethical investment. The letter states: “UniSuper does not have a policy of excluding companies involved in legal activities (irrespective of our own personal views or those of our members). To do so would compromise the impartial and independent nature of our investment process (which always seeks to deliver the best risk adjusted returns to our members).”

Firstly, UniSuper already has a policy of excluding companies involved in legal activities such as tobacco companies. UniSuper’s website provides the following information:

*“Does UniSuper invest in tobacco? No. We’ve always excluded tobacco from our socially responsible investment options. In addition, in 2011, we decided to screen tobacco companies from our mainstream investment portfolio. We made this decision on the basis that:*

- *Tobacco stocks were a small part of our total portfolio and had delivered minimal outperformance, and...*
- *The tobacco industry faces an uncertain regulatory future and has potential long-tail liabilities associated with it.*

*As such, we believe the long-term risks of owning tobacco stocks outweigh the benefits.”*<sup>12</sup> (our emphasis)

A long-tail liability is liability for a claim that has a long settlement period. The detention centres on

Manus Island,<sup>13</sup> Nauru<sup>14</sup> and Christmas Island in particular are embroiled in Supreme<sup>15</sup> and High Court<sup>16</sup> cases in Australia and Supreme Court action in Papua New Guinea.<sup>17</sup> This is in addition to compensation claims,<sup>18</sup> class actions,<sup>19</sup> coronial inquiries,<sup>20</sup> numerous Senate inquiries<sup>21</sup> and recent confirmation that the Royal Commission into Institutional Responses to Child Sexual Abuse is now investigating claims of sexual abuse of children at the Nauru detention centre.<sup>22</sup> **An uncertain regulatory future and long-tail liabilities are inherent features of the contemporary detention industrial complex.**

13 Morrison and Barns, 25 March 2014, “Manus Island negligence may have financial costs”, *The Drum* <http://www.abc.net.au/news/2014-03-25/morrison-and-barns-manus-negligence-may-have-financial-costs/5341926>

14 Barns, 9 April 2015, “Nauru open letter could send legal shockwaves” *Radio Australia* <http://www.radioaustralia.net.au/international/2015-04-09/nauru-open-letter-could-send-legal-shockwaves/1434932>

15 26 August 2014, “Christmas Island class action: lawyers to sue Immigration Dept over treatment of asylum seekers” *ABC News* <http://www.abc.net.au/news/2014-08-26/maurice-blackburn-class-action-christmas-island-asylum-seekers/5696836>

16 Human Rights Law Centre, 14 May 2015, “High Court challenge to offshore detention” *HRLC* <http://hrlc.org.au/high-courtchallenge/>

17 Manuai, 24 March 2015, “PNG court allows lawyers access to Manus Island detainees to pursue case against their detention” *ABC News* <http://www.abc.net.au/news/2015-06-22/hundreds-of-manus-island-detainees-join-legal-challenge/6564698>

18 Laughland, 1 July 2014, “Detainee who lost eye in Manus Island violence sues government and G4S” *The Guardian* <http://www.theguardian.com/world/2014/jul/01/asylum-seeker-badly-injured-on-manus-island-sues-government-and-g4s>

19 Slater and Gordon, “Manus Island Class Action” <https://www.slatergordon.com.au/class-actions/current-class-actions/manus-island-class-action>

20 Taylor, 25 August 2015, “Hamid Khazaei: Iranian asylum seeker going into brain death before Australian arrival, coroner told” *ABC News* <http://www.abc.net.au/news/2015-08-25/iranian-asylum-seeker-hamid-khazaei-pre-inquest-conference/6723300>

21 Senate inquiry home page: “Recent Allegations relating to Conditions and Circumstances at the Regional Processing Centre in Nauru” [http://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Regional\\_processing\\_Nauru/Regional\\_processing\\_Nauru](http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Regional_processing_Nauru/Regional_processing_Nauru); Senate inquiry home page: “Incident at the Manus Island Detention Centre from 16 February to 18 February 2014” [http://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Legal\\_and\\_Constitutional\\_Affairs/Manus\\_Island](http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Legal_and_Constitutional_Affairs/Manus_Island)

22 Bennett, 21 May 2015, “Child Sex Abuse Royal Commission weighs allegations in Australian immigration detention centre” *ABC News* <http://www.abc.net.au/news/2015-05-21/child-sex-abuse-commission-weighs-allegations/6486144>

<sup>12</sup> <https://www.unisuper.com.au/investments/investments-faqs>

Additionally, UniSuper also states that it seeks “to ensure consideration of [Environmental, Social and corporate Governance (ESG)] factors is integrated into our mainstream investment decision-making processes so ESG-related risks and opportunities are identified and managed where possible.”<sup>23</sup>

The mandatory detention of asylum seekers is an abuse of human rights, one of the ESG social factors. UniSuper seeks to “promote best practice” on ESG – however **there is NO question of “best practice” in mandatory detention.**<sup>24</sup> The activities of the detention industry are inherently damaging, just as there is no denying the same for an industry like tobacco or nuclear weaponry.

Existing UniSuper policy allows for the detention industry to be screened out entirely from its mainstream investment portfolio. It is that simple.

Unisuper also has a very strong mandate from a section of its members – NTEU members<sup>25</sup>– to do precisely that. The NTEU needs to stop running interference for UniSuper, such as with the dubiously-worded article by Grahame McCulloch in the *Advocate* mentioned above, and start taking both its members’ concerns and its fiduciary duties to act in the best interests of members seriously. Divestment from detention is both the ethically and financially sound option.

<sup>23</sup> <https://www.unisuper.com.au/investments/investment-approach/responsible-investing>

<sup>24</sup> [https://xborderoperationalmatters.files.wordpress.com/2014/08/unisuper\\_tse\\_divest.pdf](https://xborderoperationalmatters.files.wordpress.com/2014/08/unisuper_tse_divest.pdf)

<sup>25</sup> See n 1.

## So what can I do?

Please write to UniSuper and ask them to take action for divestment. You can use the member email below as a template.

If you are an NTEU or CPSU member, you can also write to your employee representative.

Contact details for UniSuper Board members appointed by unions are:

- Grahame McCulloch, NTEU General Secretary and UniSuper Director: [gmcculloch@nteu.org.au](mailto:gmcculloch@nteu.org.au)
- Neville Kitchin, CPSU: [nev@cpsu.asn.au](mailto:nev@cpsu.asn.au)

The Directors representing employers are:

- Professor Paul Johnson, Vice Chancellor, UWA: [paul.johnson@uwa.edu.au](mailto:paul.johnson@uwa.edu.au)
- Professor Jane van Hollander, Vice Chancellor, Deakin University: [vc@deakin.edu.au](mailto:vc@deakin.edu.au)

Other UniSuper directors include:

- Professor Michael Skully: [Michael.Skully@monash.edu](mailto:Michael.Skully@monash.edu)
- Keith Tull: [keith.tull@rmit.edu.au](mailto:keith.tull@rmit.edu.au)
- Stephen Somogyi: [vpr@rmit.edu.au](mailto:vpr@rmit.edu.au)

(The above details are current as at September 2015.)

**Please also help to spread the word to call on UniSuper to divest from detention!**

**For more information on how to get involved in the UniSuper divestment campaign:**

- <https://www.facebook.com/unisuperdivest>
- #UniSuperDivest
- [unisuperdivest@gmail.com](mailto:unisuperdivest@gmail.com)
- <https://xborderoperationalmatters.wordpress.com/>

## APPENDIX A: Member email to UniSuper, 24 August 2015

“I am writing to seek clarification on UniSuper’s investments in the mandatory detention industry through companies such as Transfield Services, Decmil and Serco, and call upon you to divest completely and permanently from this industry.

I am aware of the recent decision by HESTA to divest its holding in Transfield Services citing “social governance issues” arising from, as CEO Debby Blakey put it, “a substantial body of evidence pointing to the negative impacts of prolonged mandatory detention of asylum seekers” and “evidence that there have been numerous sexual and physical assault in the detention centres” (AFR, Transfield’s detention centre risks has shareholder Allan Gray wary, Aug 21 2015). The article cited also names UniSuper as one of a group of funds reviewing their holdings in Transfield Services. In light of the decision by HESTA and reports arising from the Senate inquiry into the conditions and circumstance at the regional processing centre at Nauru, I am gravely concerned that my retirement savings invested with UniSuper are being used to finance an industry that propagates human rights abuses.

Ms Blakey comments that, in addition to serious and legitimate concerns with human rights, there is genuine financial imperative to divesting from companies associated with mandatory detention. Ms Blakey states that “it is highly likely that the social governance issues associated with its detention centre contracts will have a negative impact on Transfield’s business and share price, so have concluded it was in the best financial interests of our members to divest the stake” (SMH, HESTA dumps Transfield citing detention centre abuses, 18 Aug 2015). I note that the Transfield Services share price has been in decline for some years now and that it has underperformed relative to all significant indices since it began managing detention centres. Given that UniSuper has a fiduciary duty to act in its members’ best financial interests, I question the rationale behind investing my retirement savings in a company with a poor

performance record and a negative future assessment arising from its involvement in detention centre work.

Furthermore, I note that the chair of UniSuper’s Investment Committee is Ian Martin, a director at Argo Investments. Argo Investments has been reported as a significant investor in Transfield Services, and their managing director Jason Beddow has spoken against divestments based on “ethical” grounds (SMH, HESTA dumps Transfield citing detention centre abuses, 18 Aug 2015). The responsibilities listed for the UniSuper Investment Committee include appointing and monitoring investment managers. One of the investment managers currently appointed by UniSuper is Invesco Australia Limited, a substantial shareholder in Transfield Services. Invesco is also a major shareholder in Serco. I am concerned by this network of investments in the detention industry, particularly if it means that calls for divestment are being misconstrued as simply “ethical” and without legitimate financial grounds.

Given both the questionable ethical and financial rationale for investing my retirement savings in companies with detention centre contracts, I ask that you clarify the extent of UniSuper’s investments in Transfield Services, Decmil, and Serco. I also call upon you to immediately divest any holdings in these companies and adopt a policy of screening out any and all companies associated with the detention industry.”

## APPENDIX B: UniSuper reply to member's email, 2 September 2015

“Thank you for your email and feedback. We have received a number of emails similar to yours.

UniSuper remains committed to being a responsible investor, through being an active share owner (e.g. engaging with companies and voting at company meetings) and by seeking to consider ESG issues as part of our broader investment process.

We also seek to provide for member choice and offer our accumulation members the ability to choose to invest in a range of stand-alone investment options depending on their personal investment objectives/needs and individual views (including two Sustainable options and the Global Environmental Opportunities option). To the best of our knowledge the following stand-alone options have no exposure to companies with involvement in offshore processing:

- Cash
- Australian Bonds
- Diversified Credit Income
- Listed Property
- Australian Equity Income
- Global Companies in Asia
- Global Environmental Opportunities
- Sustainable Balanced
- Sustainable High Growth

UniSuper does not have a policy of excluding companies involved in legal activities (irrespective of our own personal views or those of our members). To do so would compromise the impartial and independent nature of our investment process (which always seeks to deliver the best risk adjusted returns to our members).

UniSuper currently has no exposure to Transfield or Serco, however one of our external fund managers has a relatively small exposure to Decmil. This fund manager has provided us with the rationale behind this investment and has also communicated with the company regarding the concerns that some of our members hold, in order to

gather the company's viewpoint regarding these concerns. UniSuper and our external managers try very hard to maintain a balanced perspective when implementing our investment process. This can be extremely difficult at times, as we often find that the views and opinions of all stakeholders (members, shareholders, suppliers, government and other political parties, regulators, media, directors, company executives and employees) can be very different and understandably involve highly personal views and opinions.

A financial advisor will be able to advise you on how to build a portfolio, utilising the stand alone options, that has a risk profile suitable to your needs and retirement goals without exposure to offshore processing. Our dedicated in-house financial advisers can be contacted directly on 1300 331 685 or by emailing [advice@unisuper.com.au](mailto:advice@unisuper.com.au).

Should you have any further queries, please contact one of our Member Services Consultants by calling the Helpline on 1800 331 685.”

# UniSuper Divest

from the  
detention  
industry



This leaflet was written, designed and printed on Aboriginal land.