



Superannuation Fund Investments in the Detention of Asylum Seekers

UNISUPER
TRANSFIELD

Divestment Brochure
Crossborder Operational Matters, 2014

DIVESTMENT CAMPAIGN



Motion passed at the Victoria University Branch of the National Tertiary Education Union (NTEU).

Similar motions have also been passed at the NTEU Branches of the University of Sydney and Deakin University. Further motions are being put to be considered by the NTEU.



THAT the NTEU-VU Branch Committee endorse the following statement of policy and associated actions. This motion should be communicated to the Victorian Division Executive and to the National Executive. It should form the basis of a motion to go before National Council for endorsement in 2014:

Australia's practice of the mandatory detention of refugees is wrong. Staff at Australian universities overwhelmingly reject it as immoral, ineffective, and wasteful. The NTEU is committed to supporting actions that will bring about an end to this policy.

Mandatory detention only occurs because the government supports it and because commercial investors support it. Stopping this abusive regime requires persuading and pressuring those parties to withdraw their support. The NTEU has already made decisions about the endorsement of election candidates and political parties in response to their attitudes towards refugee processing. This statement of policy acknowledges that the NTEU has a similar role to play in offering and refusing support to companies on similar grounds.

One major point of influence for the NTEU in corporate decision-making is the investment profile of the UniSuper fund. UniSuper's decisions to invest or not invest in firms that take contracts to imprison refugees offshore, indefinitely, or under terms of detention that contravene the NTEU's stated policies on refugee processing can make a significant difference to the capacity and willingness of those firms to collaborate in this abusive regime.

While the NTEU does not exercise complete control over UniSuper decisions, it has an important say in the investment decisions of the fund. This statement commits the NTEU to take all reasonable steps to change UniSuper's practices so that the fund expressly dissociates itself and its members' resources from companies that receive money for the mandatory and offshore detention of refugees.

NTEU officers will make clear representations to UniSuper, calling on its Board of Directors to change the fund's investment practices in keeping with the values of this statement. That implies an especially important responsibility for NTEU-nominated members of the UniSuper Board to push for these changes to policy and to keep NTEU members informed of the progress towards reform.



STAFF & STUDENTS

Motion passed by the Melbourne University Student Union.

LL Australia's border regime and its reliance on mandatory indefinite immigration detention is the target of frequent, global condemnation as unjust, cruel, and illegal. Offshore immigration detention centres on Christmas Island, Manus Island, and Nauru have been singled out for particular condemnation, with reports emerging that asylum seekers are being raped, beaten, and even killed while in the care of the Australian government. The remoteness and secrecy of these prisons shields the Australian government from accountability for this violence.

All Australian offshore detention centres are run by private contractors. These contractors act as a further shield against accountability for the Australian government, and profit in doing so. Infrastructure and waste disposal company Transfield recently won the contract from G4S to run detention centres on Manus and Nauru, to the value of \$1-2 billion dollars, depending on unspecified "contingencies".

One of the largest investors in Transfield is UniSuper, the industry super fund for the tertiary education sector. Superannuation is compulsory under Australian law. As such, all academic staff employed at the University of Melbourne, and the majority of UMSU staff, have investments in Transfield, and receive returns as Transfield's contracts expand. As the NTEU and UMSU have consistently taken a position against mandatory detention, this cannot be considered to be the desire of the majority of UniSuper investors. The NTEU has a representative — therefore a voice — on the UniSuper board.

Investing in companies like Transfield makes us as individuals and institutions accountable for these abuses. Further, our investments provide us with a point from which we can put pressure on all potential contractors to refuse contracts to run detention centres. As such, Transfield is the target of a boycott and divestment campaign from a broad coalition of pro-refugee groups, including RISE Refugee, Students Thinking Outside Borders, Crossborder Operational Matters, Boycott 19 BoS, and Beyond Borders Collective.

In the context of massive cuts to education, and corresponding redirection of funds to border control, all university students and workers must stand firm against profiteering based on racist border panic.

Motion:

- We reiterate our opposition to mandatory immigration detention.
- We commit to divesting from all contracts with Transfield and other businesses or funds with investments in immigration detention.
- We call on UniSuper to divest from Transfield and all other businesses or funds with investments in immigration detention centres.
- We further call on NTEU National Executive to urge UniSuper to divest from Transfield and all other businesses or funds with investments in immigration detention centres. 

DEAR UNISUPER,

Our response to the misleading information given to queries by members

Over previous months, UniSuper has responded to queries from members regarding its investments in Transfield, Serco and other companies that profit from the detention of asylum seekers. We have republished a copy of one of those responses (Appendix A).

In that response they claim two main points:

- that UniSuper has a significant role to play in promoting responsible business practices by those companies it invests in,
- that UniSuper has a fiduciary duty to act in its members' best financial interests.

Responsible business practices

With respect to the Environmental, Social and Governance (ESG) indices to which they refer—such as the Dow Jones Sustainability Index (DJSI) and its Australian index—they claim in their email that the “indices are sector neutral and seek to include companies in each industry sector.”

The implication of this is that investments in specific sectors are not excluded but, instead, are judged according to criteria of best practice within each sector. The suggestion, then, is that the DJSI is indifferent to the activities of particular sectors and that therefore divestment from the detention industry as a whole is dismissed in favour of—in their words—“active ownership” to promote “responsible business practices amongst its investee companies.”

There are two related points to be made here. First, it is simply untrue that that these indices are “sector neutral.”

The DJSI categorically refers to exclusions of particular sectors under its criteria of “Ethical Exclusion sub-indices.” It explicitly sets out a methodology for exclusion of a company based on the proportion of revenues it derives from a particular sector:

Every effort is made to exclude companies based on their revenue stream from alcohol, gambling, tobacco, armaments, cluster bombs, landmines, firearms, nuclear and/or adult entertainment as defined above. [“S&P Dow Jones Indices: Dow Jones Sustainability Indices Methodology,” July 2014, p.13.]

In other words, while the DJSI does not mention the detention of asylum seekers it is not the case that its methodology is “sector neutral.” The system of mandatory detention of people who travel to Australia seeking asylum by boat is peculiar to Australia. It is therefore unlikely to appear on a list of exclusions formulated in the USA, such as the Dow Jones Sustainability Index. The US does not automatically detain people who seek asylum.

🔍 “Best practice” internment camps?

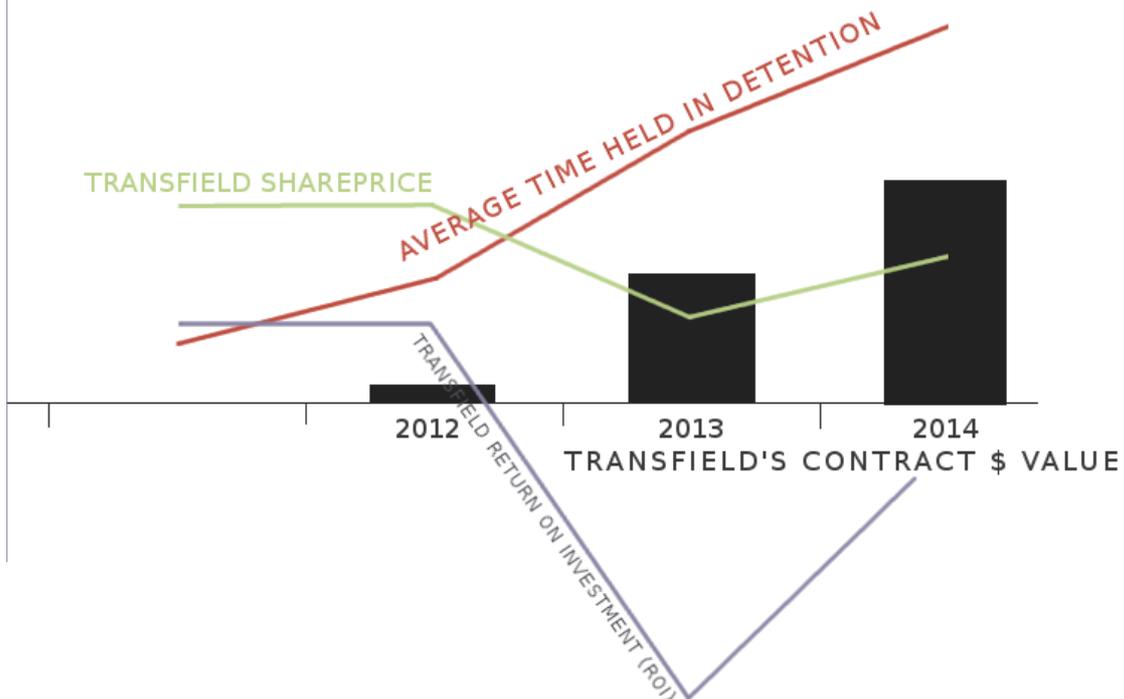
The mandatory detention of asylum seekers has been roundly denounced for involving the systematic abuses of human rights. All of Australia's migrant detention centres are run on a for-profit basis.

Just as there is no question of 'best practice' in the tobacco industry or the production of cluster bombs, there can be no question of “active ownership” to promote “responsible business practices” among companies that profit from an industry premised on human rights abuses. Just as we know that tobacco use is statistically likely to cause disease, we are also aware that *the detention of people—who have committed no crime or been charged with any—causes harm with a similarly statistical, foreseeable regularity.*

There are countless reports on this, including the recent testimony by medical staff at the National Inquiry into Children in Immigration Detention (2014) by the *Australian Human Rights Commission*. To quote a report on a recent address by Janet Holmes a Court on this point:

She said there 'was bound to be a royal commission, an eventual apology and a massive compensation payout ... both for those who had been mistreated, and the military personnel who'd been made to carry out the policy'. She said *Australians would not be able to claim they did not know what had been going on.* [“Australia facing asylum seeker royal commission, Janet Holmes a Court says,” ABC News, 6 August 2014. Emphasis added.]

The revenue stream is contingent upon a growing number of people held in detention and/or held for longer periods of time.



Figures sourced from Dept of Immigration & Border Protection, and Australian Stock Exchange

Members' best financial interests?

UniSuper say they “conduct detailed analysis of stocks before purchasing and will generally acquire a stock where they believe it has the potential to outperform the wider market.”

- Transfield's shareprice has fallen by %23 since it signed its first contract to manage detention centres on 5 February 2013.
- Transfield's shareprice has underperformed relative to all significant indices since it began managing detention centres.



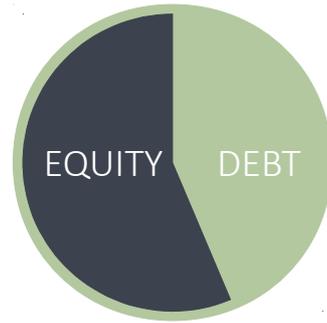
The red line represents the ASX 200. The green line is Transfield (TSE) shareprice. The ASX 200 is the investment benchmark for the Australian Securities Exchange (ASX). The index constituents are dynamic and consist of the top 200 ASX listed companies by way of market capitalisation. The index code is (XJO). Chart source: ASX.

Summary: There are no credible excuses

1. Environmental, Social and Governance (ESG) indices allow for the exclusion of an entire sector from investments. The mandatory detention of asylum seekers is not a sector in which retirement savings should be invested.
2. Transfield's shareprice has lost almost a quarter of its value since it began managing detention centres. While Transfield's decline began with the decline in mining revenues, its entry into the detention industry marked a further decline in shareprice, and the beginning of a significant divergence from the ASX 200 Index.
3. Irrespective of the rate of returns, it is possible for UniSuper and associated fund managers to shift those investments to another sector with a similar or better rate of return.

Saving Private Transfield

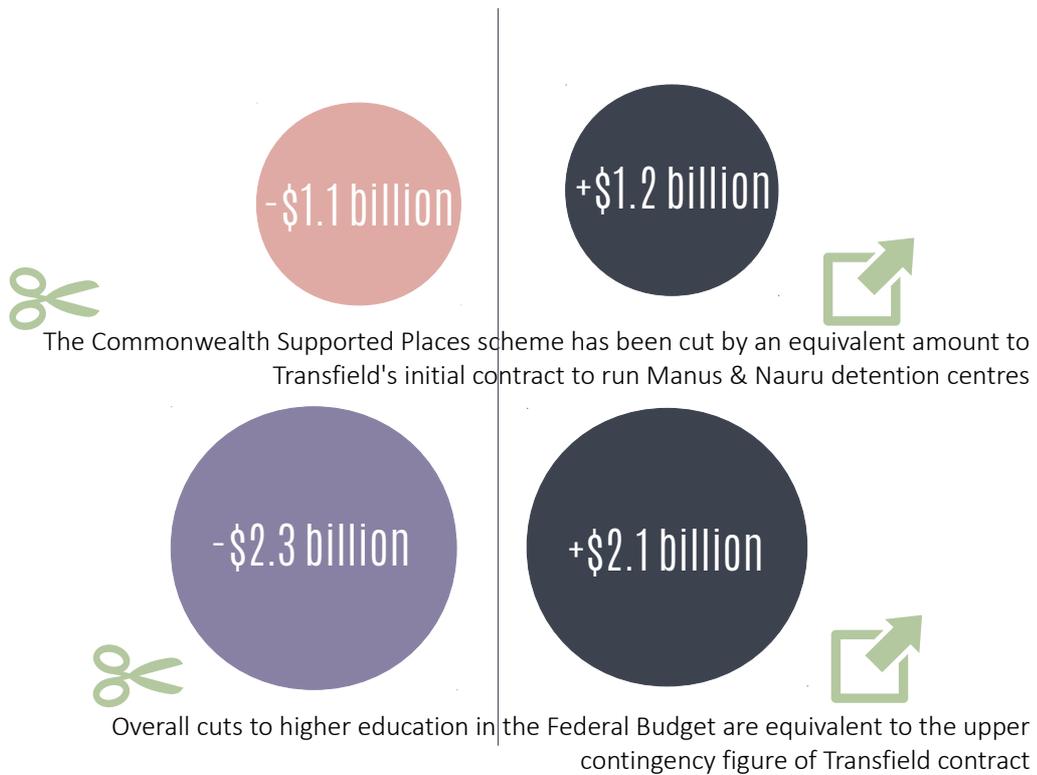
Transfield has a very high debt to equity ratio. Its debt level soared 15% in the six months to June 30 of 2013 (to \$566 million), a rise of \$75 million. Almost half that amount is due to be repaid to a syndicate of banks in December 2014.



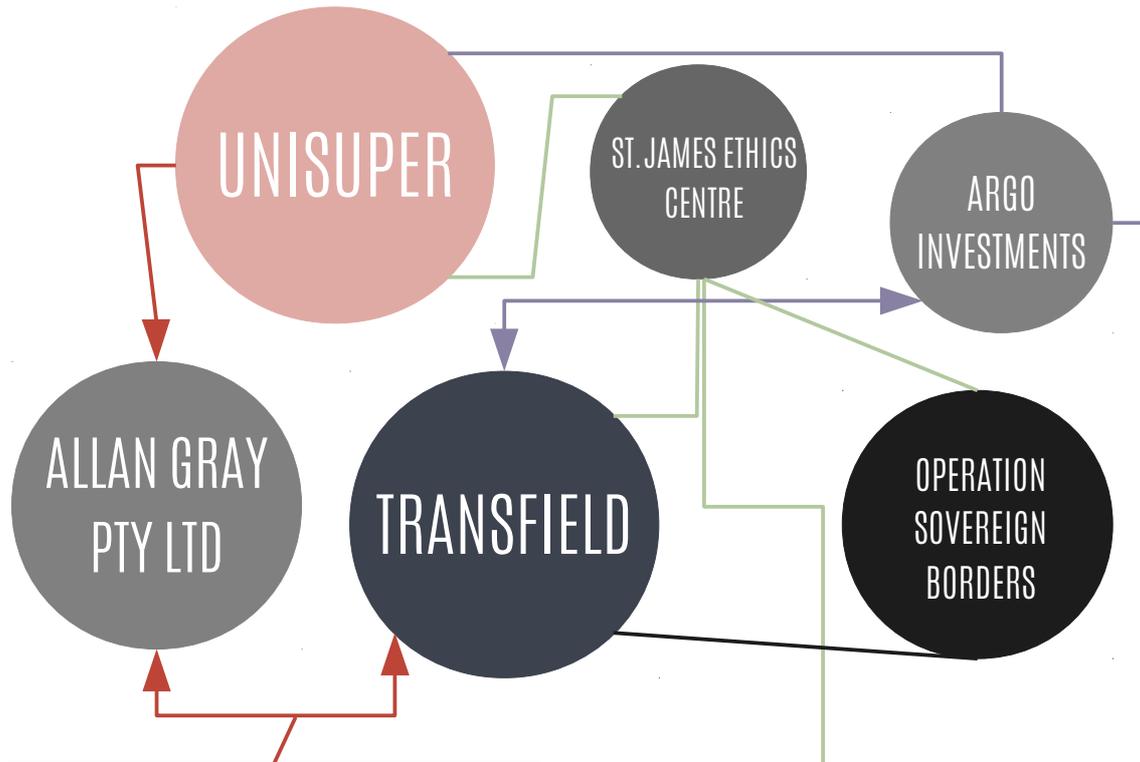
Tony Shepherd—who presided over the Audit Commission—was Deputy Chair of Transfield in 2001 and its Chair from 2005 until October 2013.

Since its decline, Transfield has been attempting a revival by a) increasing revenue from government contracts, such as detention centres, defence, hospitals, etc and b) drawing on superannuation funds to provide investment (ie, cheap loans) and as collateral for complex securities trades.

Tony Shepherd's Audit Commission operated under the slogan of 'paying down the debt' and a non-existent 'budget emergency' as a pretext for massive spending cuts in education, welfare and health care—accompanied by a wave of privatisation. This involves the transfer of taxpayers' money from things like higher education to private companies who enter 'expanding markets' created by bi-partisan government policy.



A TANGLED HEDGE



Allan Gray Pty Ltd is at present the largest shareholder in Transfield, just ahead of Transfield's parent company Transfield Holdings. Allan Gray also manages the investments of UniSuper, CBUS, HESTA, CareSuper, Catholic Super and others—which it invests in Transfield. Allan Gray Pty Ltd is owned by Mr Allan Gray, the richest person in South Africa. The company and its parent company (Orbis) are registered in Bermuda. Allan Gray is the second-largest shareholder of Fairfax Media.

The **Chair of UniSuper Board**, Christopher Cuffe, is also the Chair of the Primary Ethics Future Trust, the investment arm of the St James Ethics Centre. The **St James Ethics Centre** purports to be a charity whose role is to advise corporations on ethical judgment. As an index of its own judgment, its Board members include Major General Molan, the paid Special Envoy of **Operation Sovereign Borders**, and Douglas Snedden, a **Transfield** Director.

The Chair of Argo Investments, Ian Martin, is a Director & Board member of UniSuper. He is the **Chair of UniSuper's Investment Committee** with responsibility for deciding on investment policy and the appointment of investment managers. According to its most recent Annual Report (2013), Argo holds a \$4m stake in Transfield and a \$15m stake in Toll Holdings.

APPENDIX A - UNISUPER RESPONDS



To:
From:
Date: Friday, 21 March 2014 10:29 AM
Subject: UniSuper – Investment Enquiry

Thank you for your enquiry, we appreciate our members taking an interest in their superannuation.

Before addressing your specific queries, we thought it might be useful to first provide some general context regarding how UniSuper's equity investments are managed.

Mainstream equities

As a significant investor in Australia (and international markets), and as a fiduciary acting in its members' best financial interests, UniSuper has a significant role to play in promoting responsible business practices amongst its investee companies.

UniSuper's investment managers conduct detailed analysis of stocks before purchasing and will generally acquire a stock where they believe it has the potential to outperform the wider market. In doing so, investment managers are required to take a comprehensive view of all the factors that impact the value of a company (including ESG risks and opportunities) in deciding whether to buy or sell a stock. As such, ESG is a prominent theme for UniSuper and our fund managers are expected to consider ESG as part of their investment process.

Specifically, the integration of ESG considerations into the mainstream investment process seeks to ensure that ESG risks and opportunities are identified and analysed. Just because a company may not perform as well as it could from an ESG perspective does not preclude our fund managers from making an investment in such a company, provided they understand the risks posed. It is then through active ownership that we seek to drive change (i.e. by engaging with companies and exercising our right to vote on resolutions).

Socially responsible equities

With regard to our Socially Responsible investment options, UniSuper adopts a best of sector approach towards equity investing using the Dow Jones Sustainability Index and the DJSI Australia Index. These indices are sector neutral and seek to include companies in each industry sector (e.g. finance, food & beverage etc) that are assessed to have more sustainable and socially responsible practices than their peers. Each company within each sector is assessed, rated and scored on various environmental, social and economic criteria by RobecoSAM. To be included in the above indices, a company must receive a score in the top 10% of its sector. A range of matters are considered and these include environmental management, biodiversity impacts, product stewardship, labour practices, codes of conduct, transparency etc. Other than tobacco, no other industry sectors are screened out.

The advantage of a best of sector approach is that it does not limit investment to a narrow range of industries. In addition, it also seeks to encourage companies to improve their sustainability practices if they want to be considered for investment.

Further information with regard to our best of sector approach, together with the corporate sustainability assessment process undertaken by RobecoSAM is available on page 21 of the 'Investing for the future' booklet, a copy of which is attached.

Transfield Services

UniSuper does have a minimal exposure to Transfield Services across our mainstream equities holdings, via an externally managed passive portfolio designed to gain broad exposure to the Australian sharemarket. None of our active managers have exposure to Transfield Services. It is also important to note that Transfield Services is not currently included in either the Dow Jones Sustainability Index or the DJSI Australia Index and thus our socially responsible investment options have no exposure to the company.

UniSuper has engaged with Transfield Services to understand the key issues at hand. To date, both major political parties in Australia have demonstrated a commitment to offshore processing as part of their immigration policies. It is our understanding that the company undertook a full risk assessment prior to tendering for the Manus Island contract and is well equipped to provide the requisite services given their experience in managing the Nauru offshore processing centre. The company is also well placed to provide additional welfare support services as they have a demonstrated history of providing similar services to Australian defence force personnel. Transfield Services was not in active control of the Manus facility at the time of the riot in late February, and is currently transitioning to take on full control of the facility (expected by end March 2014).

Transfield Services demonstrates a strong commitment to corporate social responsibility and operates under its Code of Business Conduct.

Further information regarding the Manus and Nauru facilities is available on the Transfield Services website http://www.transfieldservices.com/page/Sectors/Property/Manus_and_Nauru_fact_sheet.

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