

## Important Announcement to members of the following pension schemes (“the Schemes”)

Talton Management Limited Pension Trust

Fairdon Services Ltd Pension Trust

Strator Services Pension Trust

Rotinar Ltd Pension Trust

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Since our appointment as independent trustee to the Schemes, Dalriada Trustees Limited (Dalriada) has issued a number of Announcements to members. The Announcements contain important information about the above named schemes and we thought it would be useful if we put all the key points into a single document.

### **Who is Dalriada and why did it get involved with the Schemes?**

Dalriada is a professional independent trustee who was appointed by the Pensions Regulator to take over the running of the Schemes on 8 May 2013. Dalriada is experienced in dealing with pension schemes that have complex issues and / or have unusual investments.

Because it is an independent trustee, Dalriada is not linked in any way with the original trustees of the Schemes. Dalriada effectively replaced the original Trustee, Trainor Management Services Limited, and was given exclusive powers to deal with the Schemes. The original trustee has had no involvement in running the Schemes since our appointment.

Dalriada was appointed because the Pensions Regulator (tPR) was concerned that the Schemes were being used for pension liberation.

Pension liberation occurs where individuals are encouraged to transfer their existing pensions to new schemes in the expectation of getting money from their pension fund before the minimum retirement age of 55. This is usually by way of a loan or some form of cash inducement.

Pension liberation can become fraudulent if members have not been given the full facts about the risks and costs involved.

Schemes used for pension liberation generally have high charges and often invest whatever money is left after these charges in risky and unusual investments. They also put members at risk of having to pay large amounts of tax. Pension savings benefit from tax relief because they are meant to provide benefits in old age. If individuals try and take money out of their pensions early, HMRC will charge tax on any payment at a rate of up to 55%.

The Pensions Regulator has been running a campaign warning of the dangers of pension liberation. Because schemes used for pension liberation are often just scams this campaign is now called "pension scams"–

[www.thepensionsregulator.gov.uk/pension-liberation-fraud.aspx](http://www.thepensionsregulator.gov.uk/pension-liberation-fraud.aspx)

### **Why do the Schemes need a trustee and what does a trustee do?**

Like most occupational pension schemes, the Schemes have been set up “under trust”. This means that the funds are held by “someone else” for the benefit of the members and the “someone else” is known as the trustee or trustees. So for the Schemes to operate at all they need to have a trustee in place.

Trustees of pension schemes have a lot of responsibilities, the main one being to act in the members’ interests.

Pension scheme trustees can’t do what they want with schemes. They must run a scheme as set out in the scheme’s trust deed and rules. Trustees must also know the laws and regulations which set out what pension schemes can and cannot do.

If something in a scheme’s rules contradicts something in law, trustees must do what the law says.

If it is not clear how trustees should apply the rules or the law to their scheme, they must take legal advice, and sometimes ask for guidance from the Court.

### **What did Dalriada do when it was appointed?**

On appointment Dalriada took control of the Schemes’ bank accounts. Dalriada also received copies of member files that were seized by City of London Police from the previous administrators. Based on these, we created proper administration records on our computer systems.

This is something any company would need to do to be able to run and manage a pension scheme properly and be able to work out members’ benefits and provide the necessary benefit statements.

The fact that there did not appear to be a proper pension administration system or proper record keeping meant that the Schemes were in a very poor state of organisation at the time of Dalriada’s appointment, much worse than Dalriada is usually used to seeing when dealing with occupational schemes.

Again, Dalriada would expect financial records to be readily available in the case of conventional pension schemes. The need to construct financial records from scratch has meant a significant amount of extra work.

### **Current position**

As previously advised, Dalriada has established as a result of its investigations that the Schemes did not make any investments. They appeared to have been established simply for the purpose of acting as feeder schemes for the Lincoln Umbrella Trust (LPUT). This meant that funds would be transferred into the Schemes and then transferred out again shortly afterwards to LPUT.

Current membership of the Schemes is made up of members who transferred into the Schemes but who did not subsequently transfer to LPUT before the Pensions Regulator’s intervention. The remaining Schemes funds are currently held in cash.

TPR commenced High Court proceedings in the summer of 2013 against LPUT and the parties responsible for creating the model, with tPR claiming that the main purpose of the LPUT was to provide cash payments to members and so represented a misuse or misappropriation of funds.

The Court case has now reached a conclusion and the outcome was communicated in tPR's recent press release. The defendants (A Admin Ltd, Warwick Pensions Administration Ltd, Lincoln Pensions Administration Ltd, Baxendale Walker LLP and Paul Baxendale Walker) have now signed legally binding agreements. These agreements confirm that:

- Each of the Schemes where pension liberation occurred must now be wound up
- The defendants may no longer act as trustees of the Schemes
- The Schemes may no longer accept transfers from other pension arrangements.

The tPR's press release can be found on the following link:

<http://www.thepensionsregulator.gov.uk/press/pn14-45.aspx>

### **What is the current position with HMRC on tax?**

As a consequence of tPR's action, it remains a real possibility that any transfers made to LPUT from the Schemes will be deemed "unauthorised payments". Should this be the case, the Schemes may be subject to tax penalties by way of a Scheme Sanction charge, which would have to be met from the remaining assets of the Schemes, in other words, from the funds of those members who did not transfer to LPUT.

The amount to be charged would need to be confirmed by HMRC but could be up to 40% of the total "unauthorised payments". HMRC would also need to confirm when they intend to make any Scheme Sanction Charge.

Whilst this appears unjust it remains, nevertheless, a real possibility. It will take some time before the tax position for this Scheme can be established and Dalriada can determine what impact, if any, this might have.

### **What is the current position with regard to future legal action?**

Given the conclusion of tPR's action, Dalriada may also now have to consider its own legal action. Should this be the case, we will keep all members fully informed.

### **What is the latest position with regard to transfer values and member benefit calculations?**

Because of the situation surrounding the Scheme Sanction charge, we remain unable to calculate the value of members' benefits, including transfer values.

Dalriada understands members' frustrations with the length of time being taken to resolve the issues but please be advised that we are doing all we can to get to a position of clarity as quickly as possible. As soon as we are at a point where we can calculate benefits, we will do so.

Please be assured that we are devoting our full attention to this matter and will work closely and co-operatively with all relevant parties on your behalf and in the best interests of all members.

Finally, please be advised that we have set up a page on our website:

[www.dalriadatrustees.co.uk/conder-lincoln](http://www.dalriadatrustees.co.uk/conder-lincoln)

We have included Frequently Asked Questions (FAQs) on this page and will update the website when further information becomes available. We will also upload all Announcements to this page. As you will be aware, the costs of answering queries have to be met from the assets of the

Scheme. In order to minimise these costs it would be very helpful if you could, in the first instance, check the FAQs to see if your question is answered there.

Should you, however, have any specific personal queries in relation to this Announcement, your membership of the Schemes or should you wish to provide us with further information, please contact us.

You can contact us as follows:

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