

## Important Announcement to members and potential members of the following pension scheme (“the Scheme”)

### TWM Pension Trust

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#### **Background**

We are writing to you as we believe that you may have joined the Scheme and transferred-in pension benefits from a previous arrangement or are in the process of considering (or have previously considered) such a transfer.

On 13 June 2013 the Pensions Regulator appointed Dalriada Trustees Limited (Dalriada) as independent trustee with exclusive powers to the Scheme. All trustee powers and rights are now held by Dalriada.

Mr Martin Brown, the previous trustee, was suspended for the period 13<sup>th</sup> June 2013 to 12<sup>th</sup> June 2014.

The Pensions Regulator is a statutory body which is responsible for the regulation of work-based pension schemes in the UK. Its aims include protecting the benefits of scheme members together with promoting good administration and understanding of occupational pension arrangements.

#### **Definition of Occupational Pension Schemes**

Dalriada reviewed the documentation governing the Scheme on appointment. Having done so, it was considered possible (but by no means certain) that the Scheme did not meet the definition of an Occupational Pension Scheme, as set out in the Pension Schemes Act 1993.

This was significant because the Pensions Regulator can only appoint trustees to schemes that meet that definition. If it proved to be the case that the Scheme was not an Occupational Pension Scheme in this context, then it could have been argued that Dalriada’s appointment may have been invalid.

This uncertainty surrounding Dalriada’s status as trustee at the time of its appointment and because it had much work to do, given its responsibility for managing the Scheme and looking after members' interests generally, put Dalriada in an unacceptable position.

As such, Dalriada sought to be appointed as trustee by the Court under the Court's own powers. This application was heard on 19th June 2013 and an order was made by the Court granting the application and providing Dalriada with the same powers as trustee as were granted to it by the Pensions Regulator.

This meant that, even if there had been any issues with Dalriada’s appointment by the Pensions Regulator, the Court had confirmed Dalriada’s position as trustee and Dalriada was able to carry out its duties as trustee until such time as it was established whether or not the Scheme was an Occupational Pension Scheme.

Dalriada made a separate application to the High Court (Dalriada v Nidd Vale Trustees Limited and others), not attaching to the Scheme but in relation to the definition of Occupational Pension Schemes, that was heard either side of the summer recess.

In his judgment handed down on 21<sup>st</sup> October 2013, Mr Justice Morgan determined that the schemes in question were Occupational Pension Schemes.

As a result, this validates the appointment of Dalriada by the Pensions Regulator.

### **Why have we been appointed as independent trustee to the Schemes?**

The Pensions Regulator has the power to appoint a trustee under section 7 of the Pensions Act 1995 where it is reasonable to do so:

- a) to secure that the trustees as a whole have, or exercise, the necessary knowledge and skill for the proper administration of schemes,
- b) to secure that the number of trustees is sufficient for the proper administration of schemes,
- c) to secure the proper use or application of the assets of schemes, or
- d) otherwise to protect the interests of the generality of the members of schemes.

There are concerns that the Scheme has been used as a vehicle for 'pension liberation'.

Pension liberation occurs where individuals are encouraged to transfer to schemes in the expectation of getting early access to their pension fund (before the minimum retirement age of 55), either by way of a loan or some other form of cash inducement.

Such payments are in breach of the Regulations that govern occupational pension schemes and can expose members to potentially significant tax charges.

The Pensions Regulator has recently launched a campaign warning of the dangers of pension liberation fraud [www.thepensionsregulator.gov.uk/pension-liberation-fraud.aspx](http://www.thepensionsregulator.gov.uk/pension-liberation-fraud.aspx).

Pension liberation can become fraudulent where members of schemes are not warned of the tax risks of accepting loans or cash inducements originating out of their pension funds and/or they are not advised of the charges being applied against the schemes and/or not informed appropriately how the remainder of their funds are being invested.

These are all reflective of concerns the Pensions Regulator has about the Scheme, leading as a result to Dalriada's appointment.

Dalriada is a company that operates solely to provide trusteeship services to UK occupational pension schemes. We currently act as independent trustee to a number of schemes where we have been appointed by the Determinations Panel which is a separate committee from the Pensions Regulator (in that it has a separately appointed membership and legal support) following applications by the Pensions Regulator to the Determinations Panel requesting that the powers under section 7 be used.

Dalriada has considerable knowledge and experience in all aspects of pension scheme management.

Our role as independent trustee is as follows:

- To administer the Scheme,

- To manage the Scheme's assets and understand the nature of all assets held,
- To act in the best interests of all members and beneficiaries,
- To assist the Pensions Regulator with any enquiries in relation to the management of the Scheme.

Following the Order made by the Determinations Panel to appoint Dalriada to the Scheme with exclusive powers, this decision was subject to a Compulsory Review by the Determinations Panel.

In reviewing its original decision, the Determinations Panel was bound to consider representations made to them by the previous trustee (Mr Brown), the administrators (Marley Administration Services Limited), the employer (TWM Limited), Dalriada and the Pensions Regulator.

The Determinations Panel completed its Compulsory Review and, in its final Notice dated 29<sup>th</sup> October, determined to confirm the Orders made on the 13<sup>th</sup> June.

### **What action have we taken so far?**

We have assumed exclusive control of the existing trustee bank accounts. In addition, we understand that there may be other assets of the Scheme which are held elsewhere and we are currently making investigations in order to gain a full understanding of all assets of the Scheme, including where and how they are held.

We have requested the previous administrators of the Scheme to provide us with all documentation, membership and financial records associated with the Scheme. The majority of the Scheme's documentation, including hard copy files, member files and computer records, was seized by the City of London Police, and Dalriada has obtained access to some of these records with the exception of the electronic material which the previous administrators concerned have sought to prevent us from having access to on the grounds that they might contain material not directly related to the Scheme. We have pressed them on this point, but, to date, our proposed solutions have been resisted.

Subsequently, Dalriada has created a database of members or potential members and continues to undertake a detailed analysis of all the information it has obtained.

We will update members further as things progress.

### **What does this mean for you?**

Until further notice:

- No further contributions or transfers-in will be accepted into the Scheme.
- No payments will be made to, or in respect of, any members of the Scheme.

These steps are necessary to ensure that Dalriada is able to obtain all relevant information on the assets and liabilities of the Scheme, and clarify the basis on which the Scheme should be administered and managed, before any further financial transactions take place.

***If you are in the process of transferring to the Scheme we recommend that you contact your existing pension administrator or provider and inform them that transfers into the Scheme should not be made, and instruct them to take no further action in relation to your proposed transfer at this stage. You should note that it is possible that some transfers in course of payment may proceed and we will be unable to reverse the transaction if the money is credited to the Scheme's bank account.***

If you are expecting to receive a payment, this will **not** come from the Scheme and Dalriada will not be making any payments. You should be aware, also, that if you do receive a payment from any other source, linked to your pension transfer, you may be subject to material tax penalties if pension liberation is established.

**What happens next?**

We are presently unable to provide further information in relation to any possible implications for Scheme members. Whilst Dalriada now has control of the Scheme to the extent that it is trustee with exclusive powers, it cannot comment on the security of members' benefits until it has identified the value, and secured control, of the Scheme's investments and established definitively whether pension liberation (or pension liberation fraud) has occurred.

We will endeavour to provide you with a further update at the earliest opportunity.

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.

**What should I do if I have any further questions?**

Should you have any queries in relation to this Announcement or your membership of the Scheme, please contact us. It will help us to resolve any query if you are able to supply copies of all correspondence or other communications which you may have received in relation to your membership of the Scheme.

In addition, if you have any information you wish to provide to Dalriada regarding the matters raised above, such as pension liberation, it would be helpful if you could do so via the details below.

**Please note that our offices are closed from 24<sup>th</sup> December to 1<sup>st</sup> January inclusive. Normal business hours recommence on 2<sup>nd</sup> January 2014.**

You can contact us as follows:

By Telephone: 02890 850934

By Post: Dalriada Trustees Limited  
22 Great Victoria Street  
Belfast  
BT2 7BA

Via e-mail: [Miltonadmin@dalriadatrustees.co.uk](mailto:Miltonadmin@dalriadatrustees.co.uk)

**Issued by Dalriada Trustees Limited**

**December 2013**