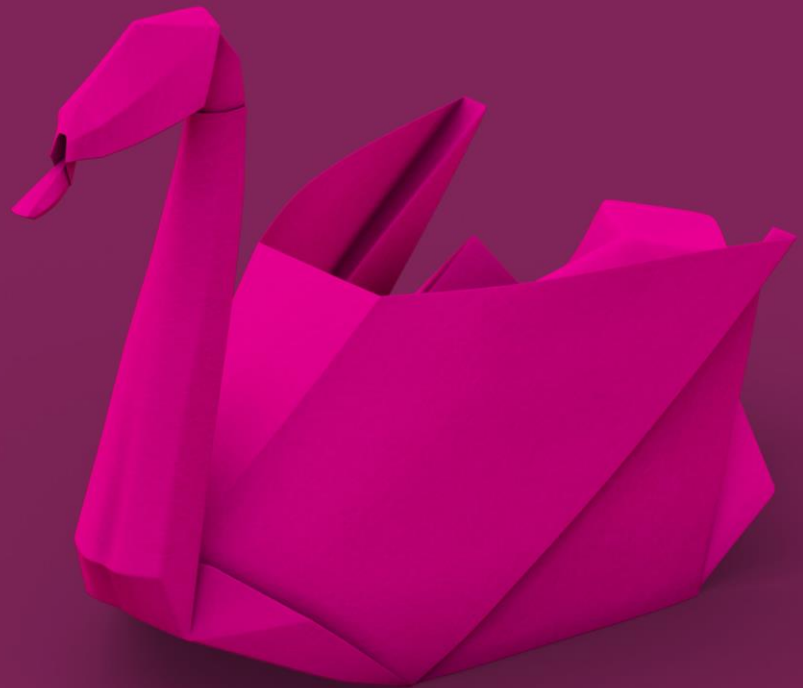


# TWM Pension Trust

## Annual Governance Statement

By the Chair of Trustees for the  
Scheme Year Ending 30 June 2022



Dalriada.  
A better way

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Signatory of:



# 1 Introduction and Background

This statement has been prepared in accordance with regulation 23 the Occupational Pension Scheme (Scheme Administration) Regulations 1996, as amended (the "Administration Regulations"), and having taken account of the related guidance from The Pensions Regulator ("TPR"), most recently updated in March 2022, when considering the various aspects of the operation of the Scheme on which we are required to report to members.

It relates to the TWM Pension Trust ("the Scheme") and covers the period from 1 July 2021 to 30 June 2022.

This statement will be published on a website made available to members.

Consideration has also been given to TPR's 'A quick guide to the chair's statement' and to the Department for Work and Pensions guide on 'Reporting of costs, charges and other information', both published in September 2018.

Matters in relation to the Scheme are considered by a dedicated committee of the Dalriada Trustees Limited ("Dalriada") Board, which meets at least four times a year. However, issues are also considered on an ad hoc basis between committee meetings. The Scheme has a dedicated client manager, alongside a project manager, who ensures anything requiring attention by the committee is communicated, and acted upon, in a timely manner.

As you will be aware from the Announcements issued to members since its appointment, Dalriada Trustees Limited ("Dalriada") was appointed on 13 June 2013 as trustee to the Scheme by TPR to protect the interests of its membership, amid concerns that the Scheme was not being properly run and that it was being used as a vehicle for pension liberation. Whilst the previous trustees were not removed by TPR, Dalriada was appointed with exclusive powers, meaning Dalriada is effectively the sole trustee of the Scheme. This has presented Dalriada with several challenges around governance. Nevertheless, this statement is a legal requirement and, as such, can serve as a useful reminder of the issues faced by Dalriada and, where it cannot meet certain governance obligations, I have explained why that it is the case.

Whilst the previous trustee was not removed by TPR, Dalriada was appointed with exclusive powers, to the exclusion of all other trustees. Therefore, Dalriada is effectively the sole trustee of the Scheme.

In terms of the investments made by the previous trustees, approximately £3.32m was paid into the Scheme by members transferring their pensions. Approximately £2.7m was paid to Castle Trust & Management Services Limited, a company registered in Gibraltar, and the funds were then used to purchase shares in Elysian Fuels No. 27 plc, a company registered in England and Wales. A further investment of £125,000 was made in NewGalaxy Services Limited, a company also registered in England and Wales.

As reported in our announcement to members in November 2020, there was a significant Court decision that determined pension schemes like the Scheme were able to make claims on the Fraud Compensation Fund ("FCF"). Dalriada has since been working with the Pension Protection Fund ("PPF"), who manage the FCF.

We are pleased to confirm that we have received confirmation that the FCF considers there are reasonable grounds for believing that the Scheme suffered losses as a result of acts of fraud and/or dishonesty. The total value of compensation to be paid to the Scheme will be calculated in accordance with legislation and determined by the FCF. We will continue to work closely with the FCF towards an agreed level of compensation.

As soon as the Scheme has been fully compensated by the FCF, Dalriada will look to put the Scheme into wind-up and settle members' benefits.

Dalriada will keep members informed of any progress by way of further Announcements.

## **Default arrangement**

A number of requirements of the Administration Regulations relate only to a "default arrangement" as defined in the Occupational Pension Schemes (Charges and Governance) Regulations 2015.

The Scheme does not have a default fund for ongoing accrual. It is not a qualifying scheme within the meaning given by section 99 of the Pensions Act 2008. The Scheme is not used to meet any auto-enrolment obligations and no contributions are being paid into the Scheme. The Scheme's assets are made up solely by way of member transfer payments into the Scheme.

The Scheme did not, and does not, offer a Default Lifestyle Strategy and did not offer members any choice as to how their funds were invested.

As mentioned above, the Scheme invested in a number of unusual, unregulated, high risk and largely illiquid investments that are difficult to value. As such, in Dalriada's view, there has never been an appropriate default investment arrangement for the Scheme. There is also no life-styling option available.

The Scheme held no liquid assets over the period of this Chair's Statement. However, should sufficient assets be recovered on behalf of the Scheme in due course, Dalriada will take appropriate advice to determine a suitable investment strategy which reflects Dalriada's intention to wind-up the Scheme as soon as it is able, giving members the opportunity to transfer any remaining funds to a more suitable arrangement.

It is therefore not possible to provide members with a meaningful statement on the return on their investments.

This Chair's Statement, and other information, is published on a dedicated Scheme website. However due to the lack of liquid funds during the reporting period, we cannot produce meaningful annual benefit statements for the Scheme members. We are therefore unable to comply with the requirement to notify members in an Annual Benefit Statement that the relevant parts of the Chair's Statement have been published on the website.

The purported investments made by the previous trustee(s) were not made acting upon the recommendation of any appropriately qualified advisor.

## **Statement of Investment Principles ("SIP")**

Ordinarily, trustees should prepare a SIP to govern decisions about investments. This is a requirement for schemes with 100 members or more.

While the Scheme has more than 100 members, a SIP has not been prepared for the Scheme. As no liquid assets are available to invest on behalf of the Scheme, Dalriada took the view that preparing a SIP would not be in any way meaningful. It was also decided that the cost of obtaining investment advice and drafting a SIP would result in an unnecessary cost being accrued for the Scheme at this time.

However, should sufficient assets be recovered on behalf of the Scheme, Dalriada will take appropriate advice to determine a suitable investment strategy. Such a strategy would reflect Dalriada's intention to wind-up the Scheme as soon as it is possible, giving members the opportunity to transfer any remaining funds to a more suitable arrangement.

As the investments are unconventional and predominantly unregulated, they do not comply with any maximum charge requirements.

Due to the numerous issues outlined within this statement, including the lack of liquid funds, it is not possible to produce annual Trustees' Reports and Financial Statements.

## **Review of default strategy and default arrangements**

There is no default investment arrangement or default investment strategy in place for the Scheme at the current time. As such, there has been no review of the default arrangement or default strategy in the year in question and no previous review for which a date can be given.

## **Core Financial Transactions**

Trustees have a specific duty to ensure that core financial transactions relating to DC schemes are processed promptly and accurately. These include the following:

- investing contributions in the scheme
- transferring assets related to members into or out of the scheme
- transferring the assets between different investments within the scheme
- making payments from the scheme to or on behalf of the members.

The Scheme does not currently accept contributions or transfers in and is unable to pay any level of benefit, including transfers values, to members at the present time.

This is due to a number of factors, not least uncertainty, to date, as to the value of the Scheme's investments and the position with regard to potential tax charges which may be levied against the Scheme should it be deemed that any unauthorised payments to members occurred. More information on the investments has been provided in Dalriada's Announcements to members.

The Scheme has not made any financial transactions in the period.

Unsurprisingly, Dalriada has been unable to carry out routine administrative actions for the Scheme over the reporting period. Therefore, there have been no material administration service issues which need to be reported here.

Notwithstanding this, Dalriada, as a professional independent trustee, has processes and controls in place that are suitably designed to ensure any service objectives can be achieved once the Scheme is in a position to operate in the manner of a normal scheme. Dalriada's administrations processes are independently audited and accredited under AAF 01/06 and AAF 02/07.

Once Dalriada is in a position to process member benefit requests these will be managed and monitored in line with Dalriada's standard SLA levels and targets and formally reported on, on a quarterly basis.

In addition, acknowledging that we need accurate member data for the processing of member benefits, Dalriada will carry out an analysis of 'common data' and 'scheme specific data' (as defined by TPR). This helps us to ensure the integrity of member data that is processed.

We perform monthly bank account reconciliations for all the schemes to which Dalriada is appointed. The purpose of these reconciliations is to ensure that all transactions processed through the bank accounts (money in and out) can be accounted for. Any transactions which cannot be accounted for are investigated and corrected if required.

## **Charges and Transaction Costs**

The governance rules require trustees to make an assessment of investment management charges and transactions costs borne by the scheme members and the extent to which those charges and costs represent good value for money for members.

The Trustee has calculated the charges and, so far as they were able to do so, the transaction costs, borne by Scheme members for the Scheme Year.

In this context, "charges" means (subject to some specific exceptions, such as charges relating to pension sharing orders) all administration charges other than transaction costs.

"Transaction costs" are costs incurred as a result of the buying, selling, lending or borrowing of investments.

Dalriada has deviated from the approach set out in the statutory guidance for the reasons set out below.

Since Dalriada's appointment there have been no transactions, as no payments into the Scheme have been accepted, either by way of contribution or transfers-in. As a result, there have been no transaction costs.

Under the terms of its appointment, the fees of Dalriada and its advisers fall as a debt due from the employer. However, this company was put into compulsory liquidation in February 2018 and it is uncertain whether there will be sufficient assets to meet the costs. In this situation the terms of appointment set out that costs (or "charges") should be met from Scheme funds.

Due to the mismanagement of the Scheme by its previous trustees and the subsequent actions taken by Dalriada since appointment, it is inevitable that the Scheme has incurred, and will continue to incur, significantly higher ongoing costs than would be the case for a similarly sized but conventional scheme.

During the current period, the Scheme has incurred trustee services costs totalling £65,099 (excluding VAT) and £14,230.10 (excluding VAT) in respect of legal costs. As the Scheme held no funds over the reporting period, Dalriada and its advisors operated on an "at risk" basis in order to service the Scheme and were not paid any fees.

We reiterate that whilst Dalriada has incurred costs in managing the Scheme, it has not been possible to meet these costs over the reporting period due to the lack of available funds. It is not anticipated at this time that there will be any recoveries made in the short term to enable Dalriada's outstanding costs to be met, or those of its legal adviser.

Should funds be received to enable the outstanding costs to be met, Dalriada will confirm to members the amount of costs incurred and, if cost effective to do so, have a full set of Report and Accounts prepared and an independent auditor will be appointed who will carry out an audit of the Scheme which will include an audit of any core financial transactions that have taken place.

### **"Good value" assessment of charges and transactions**

Generally, trustees should assess the extent to which the charges described above represent "good value" for members during the scheme year, by considering the level of member borne charges against the benefits attributable to such charges.

Whether something represents good value is not capable of being precisely defined. However, for these purposes, trustees should consider that charges may be viewed as representing good value for members where an optimum combination of cost and quality is achieved for the whole membership, relative to other options available in the market.

The characteristics of the Scheme are unusual and there are no readily available comparators to determine whether the costs incurred represent good value.

However, the actions undertaken by Dalriada, beyond those considered necessary for the appropriate management of the Scheme, are centred on action around recovery of funds. Such actions are considered on a cost-benefit analysis. Where necessary, Court approval would be sought for the use of Scheme funds to pay for any legal action.

Dalriada was appointed following a tender exercise by TPR and is subject to ongoing oversight by TPR.

Dalriada's costs (both for ongoing management and regarding action around recovery of funds) are calculated using a blended charging rate. This rate sits well below Dalriada's standard market rates for senior staff. The trustee's legal advisers operate on a similar basis, albeit on a different charging rate.

As commented above, Dalriada, as a professional independent trustee, has processes and controls in place that are suitably designed to ensure any service objectives can be achieved once the Scheme is in a position to operate in the manner of a normal scheme. Dalriada's administration processes are independently audited and accredited under AAF 01/06 and AAF 02/07.

Once Dalriada is in a position to process member benefit requests these will be managed and monitored in line with Dalriada's standard SLA levels and targets, and formally reported on, on a quarterly basis.

Dalriada is required to advise members of the cumulative effect over time of the application of charges and costs on the value of a member's accrued rights to money purchase benefits. However, due to the nature of Dalriada's appointment and the uncertainty as to both Dalriada's and its adviser's fees, as well as the value of the Scheme's investments and how these should then be attributed to the members, this is not possible to do at this time. When Dalriada is in a position to do so, it will advise members of the cumulative effect over time of the relevant costs and charges on the value of the members' benefits.

Given the nature of the Scheme and the fact that Dalriada was appointed as Trustee with exclusive powers given TPR's concerns about the misuse and misappropriation of Scheme funds, and those concerns having been well founded, the Scheme could not and cannot provide good value to members.

As noted above we cannot produce meaningful annual benefit statements for the Scheme members. We are therefore unable to comply with the requirement to notify members in an Annual Benefit Statement that the relevant parts of the Chair's Statement have been published on the website.

Once the FCF claims process is complete Dalriada will wind up the Scheme and secure members benefits with an alternative registered pension provider, to the extent it is possible to do so.

## 2 Trustee knowledge and understanding

The Trustee has considered the latest guidance in relation to Chairman's Statements from TPR and has ensured that its practices reflect the requirements set out. I have set out below how the Trustee ensures it currently meets the knowledge and understanding requirements of trustees.

### ***DALRIADA TRUSTEES LIMITED ("DALRIADA")***

Dalriada is an independent professional trustee, established in 2003, which has been appointed by TPR under section 7 of the Pensions Act 1995 to a significant number of schemes. These appointments have been as a result of TPR having concerns about the nature and operation of the schemes and the extent to which the then trustees understood their statutory and fiduciary duties and responsibilities. Dalriada refers to such schemes as "Regulatory Appointments". The Scheme is a Regulatory Appointment.

Dalriada has established a specialist team drawn, from various relevant disciplines within Dalriada to manage the governance of these Regulatory Appointments, which we have called the Irregular Schemes Team.

A dedicated committee – the Irregular Schemes Committee ("the Committee") – has been established by the Board of Directors of Dalriada to oversee the activities of the Irregular Schemes Team in its governance of this Scheme and other Regulatory Appointments. Care has been taken to ensure that the membership of the Committee is such that there is sufficient knowledge and understanding to meet the requirements set out in sections 247 and 248 of the Pensions Act 2004 and TPR's Code of Practice 7 on Trustee Knowledge and Understanding.

I have set out below the membership of the Committee, along with a short summary of their skill set and experience. In addition, it is worth noting that three members of the Committee are directors of Dalriada.

Dalriada operates a team-based approach, which gives the Irregular Schemes Team access to over 120 pensions and support personnel, with a broad skill set suited to identifying and implementing the variety of tasks required to successfully manage the schemes. This includes pension administration experts, an in-house legal team, fund accountants and investment experts. Whilst the core Irregular Schemes Team deals with the majority of matters arising on the Scheme on a day-to-day basis (in conjunction with its appointed advisers), it can access the specialist expertise of the wider Dalriada team as and when required.

As far as we are aware, no other professional independent trustee firm has established and developed a specialist team in this difficult and challenging area of trusteeship. The relevant experience developed by the Irregular Schemes Team on such cases is unmatched and unrivalled.

### ***THE COMMITTEE***

#### **Sean Browes**

Sean has been working in the pensions industry since he graduated in 1988. He worked for two major benefit consultancies in both administration management and consultancy roles, before joining Dalriada in 2003. Sean has a broad range of skills and experience suited to all areas of pension scheme management.

Sean leads the Irregular Schemes Team, dealing with Dalriada's appointments by TPR to schemes suspected of being involved in pension liberation or thought to be scams. He now has a wealth of experience and knowledge with regard to the unique characteristics associated with the administration and management of these types of scheme and the challenges they present.



Sean is a fully accredited member of the Association of Professional Pension Trustees, has completed TPR's Trustee Toolkit and holds the Pensions Management Institute's Certificate in DC Governance and Award in Pension Trusteeship (DC and DB). Sean has met all required CPD requirements.

## **Neil Copeland**

Neil is a co-founder of Dalriada and acts as an Accredited Professional Trustee on some of our most complex and challenging cases, including our Regulatory Appointments. Neil specialises in schemes with technically challenging governance and covenant issues, as well as having over 32 years of experience in relation to defined benefit, hybrid, defined contribution, multi-employer and sectionalised arrangements.

Neil spends a significant proportion of his time working on Regulatory Appointments. Like Sean, Neil has developed considerable experience of the complex and non-standard issues faced by the Dalriada team in managing the Regulatory Appointments. This has included acting as a witness in high profile litigation in relation to Regulatory Appointments in support of TPR and representing Dalriada in oral hearings before the Determinations Panel, where Dalriada's appointment by TPR has been challenged by the incumbent trustees or other directly affected parties.

Neil is a fully accredited member of the Association of Professional Pension Trustees, has completed TPR's Trustee Toolkit and holds the Pensions Management Institute's Award in Pension Trusteeship (DC and DB). Neil has met all required CPD requirements.

## **Tom Lukic**

Tom is a director of Dalriada and leads the Dalriada business across the Midlands. He has broad pensions experience with particular expertise in employer covenant and corporate transactions. He has worked with a range of trustee boards managing scheme assets from c.£5 million to more than £1 billion. Similarly, he is experienced in working with a broad spectrum of sponsoring employers from small, owner-managed businesses through to much larger and complex groups, being either privately owned or fully listed.

Tom's experience, both as an adviser and as an Accredited Professional Trustee, provides particular insight into corporate structures and insolvencies. Where the investments of Regulatory Appointments include shares and/or bonds in, or issued by, corporate entities, an understanding of the accounting and financial structures of these entities is essential and Tom provides a wealth of experience in this area.

Tom is a fully accredited member of the Association of Professional Pension Trustees, has completed TPR's Trustee Toolkit and holds the Pensions Management Institute's Award in Pension Trusteeship (DC and DB). Tom has met all required CPD requirements.

## **Brian Spence**

Brian is a co-founder and director of Dalriada. He is now involved in the provision of a wide range of advice to pension scheme sponsors and trustees. Brian is well-known in the pensions industry for taking a strategic view in dealing with pension scheme matters and uses his experience to deliver practical solutions which satisfy the needs of trustees, employers and other stakeholders. Brian is recognised by TPR and the pensions industry as an expert in dealing with contentious and/or complex issues. He is a lead contact and "key person" for a number of high-profile trustee appointments.

In addition, Brian has practical experience of working as a Professional Trustee in all three major legal jurisdictions of the UK and as a Professional Trustee and advisor in Ireland. Brian has held a UK Scheme Actuary Practising Certificate since inception of the role in 1997.

Brian has an in-depth knowledge of legal processes, particularly around testing points of legal principle related to the operation of pension schemes, often as a result of deficiencies in scheme documentation (a common issue with Regulatory Appointments). He also has experience in litigation involving pension

schemes – where it is cost effective to do so, Dalriada will look to take legal action against the perpetrators of a scam with the aim to recover misappropriated assets.

Brian is a fully accredited member of the Association of Professional Pension Trustees, has completed TPR's Trustee Toolkit and holds the Pensions Management Institute's Award in Pension Trusteeship (DC and DB). Brian has met all required CPD requirements.

### **Amanda Banister**

Amanda is a professional trustee with a wealth of experience in the pensions industry. Before joining Dalriada, Amanda was a pensions partner in a global law firm. She also spent three years in-house at the Pension Protection Fund in its early years, shaping its legal approach and gaining wide experience in pensions policy and insolvency/restructuring. After leaving, she continued to advise the PPF on some of its highest profile and most complex matters.

Amanda's experience of working with and advising the PPF is a valuable asset to the Committee, as is her significant experience of contentious pensions issues, including Pensions Ombudsman disputes. Amanda also has a strong governance and risk management skillset, with an ability to solve testing problems, which are strongly aligned with the work of the Committee and Regulatory Appointments in general.

Amanda is a qualified solicitor, has completed TPR's Trustee Toolkit and holds the Pensions Management Institute's Award in Pension Trusteeship. Amanda has met all required CPD requirements.

## 3 Knowledge of the trust deed and rules

### **All documents setting out the trustee's current policies**

The Scheme has a dedicated client manager who has an in-depth knowledge of the Scheme and its governing documentation.

At the point of becoming Independent Trustee to the Scheme, a prescribed take-on process was followed. This included an assimilation and review of all the relevant Scheme documentation, including the trust deed and rules. The Committee is made aware of any issues or risks in relation to the Scheme's trust deed and rules as and when they arise, with appropriate action agreed in relation to the issue or risk identified. In addition to the knowledge held by the client manager and Irregular Schemes Team, the Trustee obtains legal advice in relation to the Scheme's documentation, where necessary.

There have been no new trustees introduced in this reporting period. However, there is an appropriate induction process in place to support new trustees.

### ***A working knowledge of the current Statement of Investment Principles***

As set out earlier, the Scheme does not have a SIP at this time due to the particular circumstances of the Scheme.

### ***Sufficient knowledge and understanding of the law relating to pensions and trusts and understanding of the principles relating to the funding and investment of occupational schemes***

Those Dalriada staff working on the Scheme are obliged to self-evaluate their learning and development requirements on an annual basis as part of Dalriada's internal appraisal process. The process identifies how staff can develop their knowledge and understanding, as well as where they can share their expertise in order to best support the Scheme. Dalriada staff are also required to comply with their respective training requirements in order to maintain a required level of continuing professional education ("CPE") and to provide evidence of courses, seminars and other types of professional development to satisfy their respective professional bodies' CPE requirements.

Every Professional Trustee is required to undertake a minimum number of hours training each year. This is recorded centrally by Dalriada's Human Resources Team and, where appropriate, forms part of staff personal development plans. This training can include internal and external courses and attendance at industry events, as well as a degree of self-learning by way of subscriptions to professional publications and electronic information channels.

Further, every Professional Trustee is required to complete TPR's Trustee Toolkit and subscribes to the updates issued by TPR.

Professional Trustees belong to Dalriada's knowledge management network which keeps them up to date with industry thinking. They also have access to a team of in-house pensions experts who inform the team about changes to pensions legislation and practices.

The trustees have access to Pendragon Perspective and Aries - both industry-leading tools, giving access to pension legislation.

Dalriada has its own in-house legal specialists to provide support and guidance to trustees around legislation and interpretation of scheme documentation. This is further aided by advice from external legal advisers, which is obtained when the Trustee feels this reinforcement is necessary to support their own understanding.

***Combined knowledge and understanding, together with available advice enables the trustees to properly exercise their function***

Dalriada has informally assessed the skill set and experience of each member of the Committee and the client team. It has taken into account the development activities already mentioned, along with the internal resources made available to staff, supplemented, where required, by professional external advice.

The Committee understands the need to more formally assess the skills of its members. This is done using a skills matrix developed for this purpose. Any areas for development flagged during this process will be addressed as part of the individual's personal development plan and reviewed throughout the year.

An evaluation of the effectiveness of the Committee as a whole is also carried out.

I consider that the combined knowledge and understanding of the Committee and the client team enables them to exercise properly their function as trustee of the Scheme. In particular:

- Members of the Committee have the relevant financial knowledge and experience to enable the Trustee to comply with its duties in relation to investment of the Scheme's assets. Tom Lukic's experience (see above) is particularly advantageous in this area.
- There is a vast range of pensions experience and knowledge within the Committee and the client team. This is appropriate to deal with the governance of the Scheme in line with the trust deed and rules, along with other scheme documentation. There is also a great deal of experience relevant to dealing with issues which might be thrown up by the Scheme which require the amendment of scheme documentation.
- Sean Browes, Neil Copeland and Brian Spence have a great deal of knowledge and experience in relation to schemes of complex nature, such as this Scheme. This includes schemes where investments made by previous trustees are deemed to be highly inappropriate, their administration has been poor and / or the previous trustees have not had the sufficient knowledge and understanding to be trustees of an occupational pension scheme.
- Sean Browes and Neil Copeland have many years of experience in the administration of pension schemes, allowing a keen oversight of the administration of the Scheme.

**Member Representation**

Dalriada seeks to keep members informed and to facilitate direct access for members to Dalriada by means of a:

- Dedicated member website;
- Dedicated contact e-mail address; and
- Dedicated phone line.

Agreed as final version by the Chair of the  
Trustee of the TWM Pension Trust

Dated: 30 January 2023

# Dalriada. A better way

## **Belfast**

Linen Loft  
27-37 Adelaide Street  
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BT2 8FE

## **Birmingham**

Edmund House  
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B3 3AS

## **Bristol**

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Bristol  
BS1 3AG

## **Glasgow**

The Culzean Building  
36 Renfield Street  
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## **Leeds**

Princes Exchange  
Princes Square  
Leeds  
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## **London**

46 New Broad Street  
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## **Manchester**

St James Tower  
7 Charlotte Street  
Manchester  
M1 4DZ