

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

The Focusplay Retirement Benefits Scheme The P.S.P. Retirement Benefits Scheme

Background

This is the second Announcement to members and is an update for members on what actions have been taken in relation to our appointment.

You may recall that Dalriada Trustees Limited (“Dalriada”) is a professional independent trustee which was appointed by The Pensions Regulator (“TPR”) to take over the running of the Schemes with exclusive powers on 11 May 2017. All trustee powers and rights are now held by Dalriada.

TPR 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 pension scheme members together with promoting good administration and understanding of occupational pension arrangements.

Dalriada was appointed after the previous trustee companies, Gleeson Bessent Trustee Services Ltd and Gleeson Bessent Trustees Ltd, were wound up in the public interest by The Insolvency Service in March 2017.

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

TPR 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.

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 following applications by TPR to the Determinations Panel, requesting that the powers under section 7 be used. The Determinations Panel is a separate committee from TPR, in that it has a separately appointed membership and legal support. Dalriada has considerable knowledge and experience in all aspects of pension scheme management.

Our role as independent trustee is as follows:

- To administer the Schemes;
- To manage the assets of the Schemes and understand the nature of all assets held;

- To act in the best interests of all members and beneficiaries; and
- To assist TPR with any enquiries in relation to the management of the Schemes.

It is not appropriate for Dalriada to comment in any detail in relation to the decision to appoint an independent trustee.

What action has been taken so far?

Upon its appointment, Dalriada commenced an investigation of the Schemes to ascertain, amongst other matters, how they operated historically, what actions the previous trustees took, and importantly what value, if any, the purported investments made on behalf of the Schemes hold. Alongside Dalriada's investigation in its capacity as Trustee of the Schemes, various separate entities also conducted their own respective investigations.

In July 2018, the Insolvency Service disqualified all four directors of both companies for a total of 21 years, for their role in the companies' mismanagement of member funds.

In addition, TPR commenced its own prosecution of Mr Roger Bessent, a previous Director of the previous trustee companies and he subsequently appeared in Court charged with five counts of fraud by abuse of position and five counts of making employer-related investments. This is the first time that TPR has prosecuted for these offences.

Fraud by abuse of position is an offence under Section 1(2)(c) of the Fraud Act 2006. Making a prohibited employer-related investment is an offence under Section 40(5) of the Pensions Act 1995.

Mr Bessent was accused of abusing his position as the director of the previous trustee company and transferring more than £290,000 of pension scheme funds into his bank account and those of companies controlled by him. Mr Bessent used more than £120,000 of the transferred funds to buy himself and his wife a house to rent out as a personal property; however, his daughter lived in the property with her partner. Other funds from the Focusplay scheme were used to pay tax bills for Mr Bessent's accountancy business and the business of a client, to subsidise the running costs of a children's nursery, and as start-up investment capital in his son-in-law's physiotherapy business.

Mr Bessent entered a plea of guilty to five counts of fraud, two counts of making employer-related investments and one count of acting as a director of a limited company while disqualified, in February 2019. On acceptance of pleas of guilty to the majority of the offences the remaining three counts of employer-related investments were not proceeded with by TPR and were left to lie on file at TPR's request. Mr Bessent was originally sentenced to serve a total of 40 months in prison for the offences, but following an appeal this was reduced to a total of 39 months in prison (with the reduction being in respect of the acting as a director while disqualified conviction). Mr Bessent is currently serving his sentence.

Following the successful prosecution, conviction and sentence of Mr Bessent a further hearing was scheduled in respect of a Confiscation Order. If successful, such an Order could result in the return of funds to the Focusplay scheme from assets currently held by Mr Bessent. This Confiscation Order hearing was originally scheduled for July 2019 but has been adjourned and is awaiting to be heard.

Bank Accounts

We have assumed control of the Schemes' bank accounts, which we now control exclusively.

Investments

We have undertaken a reconciliation of all payments out of the Schemes' bank accounts to establish where the funds have gone. Currently, it would appear the previous trustee has made in the region of 30 purported investments, including loans to private companies. All but one of the purported investments are unregulated, with a number of these in overseas entities. In respect of the investment decisions made, Dalriada understands that the previous trustee did not seek or acquire regulated investment advice, contrary to its requirement to do so.

Dalriada has attempted to make contact with all of the investments made and are actively in correspondence with a number of entities with the aim of, where possible, returning funds to the Schemes.

To date, the following notable recoveries have been made on behalf of the Focusplay scheme:

- The previous trustee invested £750,000 in a regulated investment fund managed by Organic Investment Management Limited. Dalriada sought advice from a professional and regulated investment advisor, and acting on this advice, exiting the investment returning £713,827.82 to the Focusplay scheme.
- The previous trustee also entered into a number of corporate bonds issued by Dolphin Trust; a company based in Germany that operates in the property sector. To date four out of six bonds have matured, returning £160,278.86 on an initial investment of £84,000 over a 5-year period. The remaining two bonds are not due to mature until later in 2020.

Importantly, Dalriada notes that approximately £10 million of the Schemes' funds were transferred to The Enduro Partnership Limited ("Enduro"), a UK based company which, amongst other activities, reportedly assists early stage companies to acquire funding. Dalriada understands that with the assistance of Enduro, a proportion of these funds were later transferred to four companies. Dalriada continues to correspond with both Enduro and the four companies that received Scheme funds in order to clarify the nature of the transactions and what value, if any, can be returned to the Schemes.

In addition, Dalriada continues to review and assess the numerous remaining purported transactions made by the previous trustee. It is noted that many of the related companies are in administration and it appears unlikely that many of these purported investments will return much, if anything at all, to the Schemes.

As and when further notable recoveries are made, Dalriada will keep members informed by way of an announcement.

Administration

Using both information provided by the Insolvency Service and the previous trustee, Dalriada has worked to construct a member database. However, this has proved difficult due to inconsistencies and conflicting data in the files provided to Dalriada. This matter is further complicated with the possibility of transfers in and out of the Schemes with separate pension schemes also under the management of the previous trustees.

Dalriada continues to review and verify any data provided and, where necessary, will acquire any necessary legal advice required to clarify the Schemes' membership and records.

Recent Pensions Ombudsman Decision

A recent decision made by the Pensions Ombudsman in respect of a scam scheme where Dalriada has been appointed as Trustee by TPR is something that we feel should be brought to the attention of members who may wish to consider the facts pertaining to the case and consider whether there are grounds for making similar complaints to their previous schemes or providers. To assist members in considering whether they should take action we have attached an appendix to this Announcement that contains the main facts which led to the determination and other relevant points which members should consider.

In the case in question the member made a complaint to the scheme that transferred his benefits to the scam scheme. The grounds for his complaint were that the Authority that governed his scheme transferred his pension fund to the scam scheme without having conducted adequate due diligence checks on it and failed to provide him with a sufficient warning, as required by TPR, about the risks posed by pension scams. Having reviewed the particular facts of this case, the Ombudsman has ordered that the member should have his benefits reinstated to the transferring scheme (and increased for the period it was out of the transferring scheme), or, if reinstatement is not possible, that the member be provided with equivalent benefits. Any recoveries from the scam scheme should be offset against the cost of providing reinstatement or equivalent benefits in due course. The Ombudsman also awarded the member £1,000 damages for distress and inconvenience. The full determination can be found here.

<https://www.pensions-ombudsman.org.uk/determinations/2018/po-12763/the-police-pension-scheme/>

We will cover the point in the Appendix, however, we should draw to members' attention that this decision will also be considered by claims management firms and lawyers who may offer their services to members with an ongoing, or are considering making a, complaint. In this particular complaint the Ombudsman ruled that legal costs would not be awarded. As the outcome of the determination was that benefits should be reinstated (in other words, there was no significant cash award to the member other than the £1,000 distress and inconvenience payment) the member is obliged to meet these significant costs himself. This should be borne in mind by members if they are approached by organisations offering to act for them in such complaints.

We cannot advise members on the merits of making complaints against their previous schemes or providers, or assist them in doing so, as we are unlikely to have details of all correspondence between a member and their transferring scheme and the particular circumstances of their case.

It should also be noted that if the transferring scheme can demonstrate that it carried out appropriate due diligence and provided a member with adequate information about the risks posed by pension scams, then the Pension Ombudsman's decision may differ from the decision in this case.

Financial Advice

The records provided by the previous trustee generally do not provide confirmation or clarification of any financial advice received by members. It is our understanding that transfer advice was not taken by the membership at large. Rather, members may have corresponded with unregulated introducers.

However, if members are unhappy with a financial product or service that may have been provided to them then members are able to complain to the firm directly. I have included below a link to the Financial Conduct Authority's ("FCA") guidelines on how to complain:

<https://www.fca.org.uk/consumers/how-complain>

Financial Services Compensation Scheme ("FSCS")

We understand that some members have already started making claims to the FSCS.

The FSCS can consider claims against firms providing advice that have now failed.

To consider claims against a failed firm, the FSCS has to be satisfied that customers have first exhausted any right to claim against any connected firm still trading.

The FSCS may also need to be satisfied that the firm being claimed against was FCA (or PRA) authorised. You can check the status of your advisor on the FCA register:

<https://register.fca.org.uk/>

If your advisor was not FCA regulated when transferring your pension, we understand that the FSCS can't compensate you. This is because there is no FCA/PRA-regulated firm to make a claim against. However, you may be able to make a claim directly to your previous pension provider as is noted above. You'd be claiming against the quality of the checks they carried out when transferring your pension.

If your advisor was FCA authorised, is still trading, and you believe you were misadvised to transfer your existing pension or to invest, you need to complain to them first. If they reject your complaint, you can take it to the Financial Ombudsman Service ("FOS").

If your advisor was FCA authorised, is no longer trading, and you believe you were misadvised to transfer your existing pension or to invest, you should submit a claim to FSCS against your financial adviser.

Dalriada cannot give advice in relation to claims to the FSCS. However, the FSCS exists to make it easy for individuals to make contact with it. The FSCS website can be found via the following link:

<https://www.fscs.org.uk>

Cold Calling

Unsolicited calls about your pension became illegal on 9 January 2019. Companies that make unwanted, unsolicited phone calls to people about their pensions may face enforcement action, including fines.

The ban prohibits cold calling in relation to pensions, except where the caller is authorised by the FCA, or is the trustee or manager of an occupational or personal pension scheme, and the recipient of the call consents to calls, or has an existing relationship with the caller.

If you receive a cold call about your pension, get any information you can, such as the company name or phone number and report it to the Information Commissioner's Office via their website or on 0303 123 1113.

Claims Management Companies

Dalriada have become aware that a number of Claims Management Companies ("CMC") have made contact, or have indicated to us that they want to make contact, with members in order to assist with individual applications to the FSCS for compensation, or other such methods of redress.

CMCs themselves are regulated by the FCA; however, the whole point of entities such as the FSCS is that it should be easy for claimants to make claims for themselves. The procedure is free, and the guidance from the FSCS on its own website specifically encourages individuals to make their own claims without incurring costs or offering a cut of compensation to another party in return for assistance.

If compensation is awarded, that compensation is for the benefit of the claimant. A CMC will always want to enter into a contract for their services, with a fee structure based on success. This fee is often 20% to 40% of compensation paid. To put this into cash terms, if the FSCS made an award of £50,000 then, based on a 20% fee agreement, the CMC would be entitled to £10,000 of that compensation. This is regardless of how much work is done and often this would be just filling in a simple online form.

In addition, members should proceed very cautiously if approached by either a CMC or financial advisor where there is no existing relationship. As noted above, there is now a ban on cold calling in relation to pensions so such approaches might be in breach of that and, as a result, liable for criminal action.

Scams

Dalriada shares TPR's fears that the impact of Coronavirus (COVID-19) on markets and personal finances may make members more vulnerable to scams.

We wish to make members aware as to the risk of scams and be able to spot scam warning signs.

We strongly advise members to visit the ScamSmart website for more information –

<https://www.fca.org.uk/scamsmart>

<https://www.fca.org.uk/scamsmart/how-avoid-investment-scams>

Member websites:

Dalriada has set up a dedicated member website for the Schemes. Dalriada will make available through the website copies of all Announcements, alongside any relevant governance documents.

Links to the Scheme website can be found below:

<https://www.dalriadatrustees.co.uk/scheme/gleeson-bessent-pension-schemes/>

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 Schemes, please contact us. As above, please also supply copies of all correspondence or other communications which you may have received in relation to your membership of the Schemes.

You can contact us as follows:

By Telephone: 028 9521 0130

By Post: Dalriada Trustees Limited
Linen Loft
27-37 Adelaide Street
Belfast, BT2 8FE

Via e-mail: focusplayadmin@dalriadatrustees.co.uk

Issued by Dalriada Trustees Limited

May 2020

Appendix

Pensions Ombudsman Determination

Facts

Mr N, as he is referred to in the determination, was a member of the Police Pension Scheme (the Police Scheme) which was run by the Northumbria Police Authority (the Authority). In August 2014 Mr N made a transfer from the Police Scheme to an occupational pension scheme called the London Quantum Retirement Benefit Scheme (the London Quantum Scheme).

In February 2013 The Pensions Regulator (the Regulator) began the Scorpion Campaign to highlight the dangers of pension liberation fraud to professional pension bodies. This included a member leaflet to highlight both the campaign and the risks. The Regulator recommended that this leaflet be issued by the transferring pension scheme to all members who were looking to transfer. Despite the member leaflet having been issued some eighteen months beforehand, the Authority did not issue this leaflet to Mr N. It considered it sufficient to place a copy on its intranet news feed, where it might be seen by employees.

The Regulator also recommended that checks be carried out on the receiving schemes in order to flag issues that might suggest they were scam schemes. There was no evidence that the Authority had carried out this due diligence. The Ombudsman noted that the London Quantum Scheme exhibited several features to indicate that it might be a pension liberation scam scheme which would have been picked up by this due diligence, such as:

- The London Quantum Scheme was sponsored by a dormant company.
- The employer company was registered in London, geographically far from the member.
- The sponsoring employer of the London Quantum Scheme did not employ Mr N.

The Ombudsman's view was that the Authority should have made these checks, should have found the areas of concern and should have flagged these to Mr N. If they had, then – having very carefully considered Mr N's personal circumstances - it was the Ombudsman's opinion that Mr N would have not gone ahead with the transfer and not suffered loss as a consequence.

The Ombudsman also noted that the start of the Scorpion Campaign in February 2013 was significant as, after that date, pension schemes and providers should have been more aware of the risks, as well as their obligations, and should have been more diligent. The Authority failed in this respect.

The Ombudsman considered that if the Authority had undertaken the correct due diligence and entered into a dialogue with Mr N himself (as opposed to communicating only with the firm involved in this matter) it would have uncovered other facts that would have raised concerns such as:

- The involvement of an unregulated introducer.
- The type of investments being made through the London Quantum Scheme - the fact that the forms signed by Mr N indicated that he was a sophisticated investor seeking a high-risk investment.
- It may also have revealed the names of some of the parties involved and their previous involvement in other schemes which have been publicly linked to pension scams.

Mr N had used the services of a lawyer to argue his case. This was on a fee basis, calculated as a percentage of the amount awarded. Mr N asked for his costs to be met by the Authority. The Ombudsman said that it was not appropriate for him to award costs for fees as Mr N could have

made his complaint to the Ombudsman without legal representation or incurring other advisory costs, or made use of the free help and guidance service offered by The Pensions Advisory Service.

Does this affect me? Points to consider

All cases are subject to the facts that apply to that case. The Ombudsman's determination was very specific to the facts that applied to Mr N, but there are some points arising from it that members may wish to think about in relation to their own situation:

- Did you transfer after the launch of The Pension Regulator's Scorpion Campaign in February 2013?
- Did you receive the Scorpion leaflet from your transferring scheme or provider?
- Did your transferring scheme or provider carry out due diligence on the Focusplay / P.S.P scheme? If they did, what did it uncover and did they share this with you? If they did not, why not?
- Did your transferring scheme or provider flag any concerns to you about the Focusplay / P.S.P scheme?
- Did your transferring scheme or provider ask you further questions about your reasons for joining the Focusplay / P.S.P scheme? For example, about your relationship, if any, to the sponsoring linked employer, whether you had taken regulated advice, whether an unregulated introducer was involved or whether you were offered or received any payment even if this was described as an incentive or a loan?

If, having considered these points, you have a concern that your previous transferring scheme or provider might not have taken all the steps they should have at the time, then you may have grounds to complain. It should be noted, though, that if the transferring scheme can demonstrate that it had carried out appropriate due diligence and provided a member with adequate information about the risks posed by pension scams or if you received any payments by way of incentives, loans or payments made before you reached age 55 then the Pensions Ombudsman might be less likely to find in your favour than he was in this case.

Process for taking forward a complaint

Any complaint that you feel you have regarding how your transfer to the Focusplay / P.S.P scheme was managed by your previous scheme or provider should be directed to your previous transferring scheme or provider, not to the Focusplay / P.S.P scheme.

There are rules and procedures regarding how complaints should be made and progressed through the Pensions Ombudsman. Mr N's complaint was concluded after all due process had been followed and roughly took two years from start to finish, including a full oral hearing (similar to a Court hearing) at which witnesses were presented in relation to the circumstances of Mr N's complaint. That is not to say that all cases will take this long, but a complaint like this involves a lot of facts.

The first stage is to approach the transferring scheme or provider to make a complaint. This may be through the occupational pension scheme's internal dispute resolution procedure (IDRP) or a provider's own complaints procedure, if it is a personal pension scheme. The Pensions Ombudsman's Early Resolution Service may also be able to assist you in resolving the issue informally.

There are time limits for bringing complaints under a scheme's IDRP - a "reasonable period" as the legislation describes it. The Regulator has set out guidance about "reasonable periods". What this guidance says is that for complaints to be made by a person who has (or claims to have) ceased to have an interest in the scheme, trustees or managers:

- Should set the time limit for making the claim as six months after having (or claiming to have) ceased to have an interest (and the Regulator would not normally expect an application received within this time to be refused).
- May agree to accept an application received outside the time limit. The decision-makers should, for example, consider accepting late complaints where the applicant could not reasonably have been aware of the matters in dispute, or for exceptional reasons such as incapacity.

This second point is quite important as you will need to set out why you were not aware until lately of the matter about which you are complaining. It also means that if you believe you have grounds for making the complaint the clock is running now.

Any complaint that you make must be considered in line with each scheme's own IDRP. Providers will consider complaints in line with their own agreed complaints procedures.

If your complaint is rejected then you will be told what options are available to you. Generally, this would be a referral to the Pensions Ombudsman, if you are not satisfied with the outcome. You can contact The Pensions Ombudsman direct if you do not receive a reply to your complaint within a reasonable time. You can also contact The Pensions Advisory Service for general requests for information or guidance concerning your pensions arrangement.

You should be aware that the Pensions Ombudsman also has time limits for making complaints. A complainant must bring a complaint, or refer a dispute, to the Ombudsman within three years of the act or omission that is the subject of the complaint or referral.

However, again, where an individual was not aware of the act or omission causing the complaint, the Ombudsman may extend the limitation period so that the three-year period does not start to run until the earliest date that the person knew, or ought reasonably to have known, of the occurrence of the act or omission.

The Ombudsman has discretion to handle a complaint or dispute out of time, if he considers that it was reasonable for a complaint not to be made or a dispute not to be referred within the three-year period.

Help and costs

The complaints process (up to and including the Pensions Ombudsman) is designed to allow members to bring complaints and have them considered fairly and independently without the costs of taking the matter to Court. Often the process will seem complex, but free help is available through bodies such as The Pensions Advisory Service and the Citizens Advice Bureau.

Many commercial organisations such as CMCs and lawyers will seek to offer help and assistance to members and have various fee structures that they can apply. Whilst they may assist in formulating and presenting a case, the fee charged ultimately might be quite high. If the result of a successful complaint was reinstatement in the transferring scheme, no actual money will be paid directly to you. You would have your pension rights reinstated. The value of those rights would be the amount claimed.

For example, if you entered into an agreement on a 'no win, no fee' basis which paid a fee of 20% of the successfully recovered claim and if the reinstatement value of your pension was £200,000, then the fee due to the organisation representing you would be £40,000. Depending on how the arrangement was structured, there might also be VAT payable on top of that too. In this example you would be personally liable to pay £40,000 (plus any VAT) to the organisation as it cannot be

paid from the reinstatement value of your pension. Please consider how you would find such a fee if you were to decide to take up the offer of help on this basis.

It should be noted that if you pursue your claim via a Court it may agree to award costs. However, the costs and risks are higher going down this route. Determinations and directions by the Pensions Ombudsman are final and binding, subject to a right to appeal on a point of law only (you should also bear in mind that permission to appeal would first have to be granted by the Court).

We would emphasise the point that in this case the Pensions Ombudsman did not consider it appropriate to award costs as, in its opinion, the member could have pursued his complaint without instructing solicitors or other advisers. The Pensions Ombudsman highlighted free sources of advice for individuals in this area such as The Pensions Advisory Service and the Citizens Advice Bureau.

Useful contact details

If you have a complaint or dispute concerning your workplace or personal pension arrangements you should contact:

The Pensions Ombudsman

Telephone: 0800 917 4487

Website: www.pensions-ombudsman.org.uk

If you have general requests for information or guidance concerning your pension arrangements contact:

Money and Pensions Service

Telephone: 01159 659570

Website: <https://moneyandpensionsservice.org.uk>

Will Dalriada play a role in helping me to make a complaint?

Dalriada and the Focusplay / P.S.P scheme will not be parties to, nor be involved in, any complaint that you bring against a previous scheme or provider. Our duty is to act as Trustee of the Schemes and to proceed as we have set out. We will seek to make recoveries and to be in a position to pay benefits as and when all the issues set out in the Announcements have been resolved.

That said, we would hope that the above information is helpful to members in considering whether they have a basis for a potential complaint - which will not be without challenge - and also in contemplating whether it is truly necessary or in a member's interests to seek external help from third parties (i.e. CMCs) who will look to take a fee in the event of a successful outcome and, if you do use such a third party, how any fee would be paid.