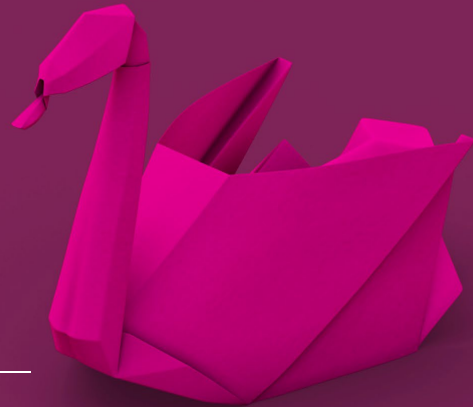

Important Announcement to members of the Merseyside Care Retirement Benefits Scheme ("the Scheme")



Dalriada. A better way

Background

Dalriada Trustees Limited ("Dalriada") was appointed as Independent Trustee of the Scheme by Court Order on 19 September 2013. The powers and duties exercisable by Dalriada in its capacity as trustee are to the exclusion of any other trustees of the Scheme. Whilst the two previous individual trustees were not removed at the time, Dalriada was appointed with exclusive powers.

The Scheme was suspected of being used as a vehicle to allow members under the minimum retirement age of 55 to access their pension funds by way of a loan or some other form of cash inducement.

Dalriada established that of the funds paid into the Scheme, £1,390,000 was invested in a Guernsey-based company, Arterial Distribution Ltd. A further sum in excess of £251,000 was loaned to Innovation PS Limited, a company operated by one of the former trustees, Mr Hugh Mcauley. This was only later claimed by Mr Mcauley to be a loan and not made clear to Dalriada at the time it was appointed even though Mr Mcauley provided a sworn affidavit to Court.

A further sum of £34,670 was loaned to Mr S Simmons and, as a result of legal action taken by Dalriada, this amount has been recovered in full, with interest.

Because there was no explanation for the loan payments to Innovation PS Limited and Par Management Services Limited initially, Dalriada instructed its legal advisers to seek a freezing order from the Court against Innovation PS, Mr Mcauley, his wife (also a former trustee) and Formby Playsports Limited, another company operated by Mr Mcauley that had received some of the money paid to Innovation PS Limited. Dalriada did this on an urgent basis and without notice to any of the other parties in order to ensure that funds were protected if a freezing order was granted.

The freezing order was granted by the Court at a hearing on 14 February 2014 and the money loaned to Innovation PS Limited was ultimately repaid in full, with a further payment as a contribution towards the cost of legal action and lost interest.

Member Announcement

Subsequently, Dalriada concluded that there was a basis to pursue recovery of the funds paid to Arterial as well, given Mr and Mrs Mcauley had not obtained any investment advice when entering into that investment. Dalriada commenced further Court proceedings alleging that Mr and Mrs Mcauley had acted in breach of trust in making the payments to Arterial.

The money paid to Arterial purported to relate to an investment in a company developing a pharmaceutical diagnostics tool. Dalriada and its legal advisers were in communication with Arterial and their legal advisers (as well as two other Arterial companies, Arterial Capital Management Limited and Arterial HPV Limited, also based in Guernsey) to try and understand the investment. It appeared that the investment in Arterial was a very high risk investment and not appropriate for the Scheme.

Dalriada sought summary judgment (i.e. that the Court considered the claim so strong as to not justify the need for full legal proceedings as any defence had little prospect of success) and obtained summary judgment in relation to about half the sum, given, it was argued, a proportion of the funds invested had been paid to members.

An initial settlement was reached in February 2018 for £373,496. This figure was increased to £381,136 by a variation to the settlement agreement, made in May 2018, following Mr Mcauley's failure to pay the sum due. Whilst the Scheme received a payment of £142,301 it became clear that Mr Mcauley was not going to be able to pay the balance due. In June 2019, Dalriada reached a final settlement agreement for £212,214, to be payable immediately plus a further £61,966 due to be paid before the end of 2019 on the sale of Mr Mcauley's buy to let portfolio. This final settlement was felt likely to generate a greater return to the Scheme than the alternative of looking to pursue Mr Mcauley into bankruptcy.

Dalriada received £212,214 in July 2019 and £21,221 in April 2021. Ultimately, a payment of £10,611 was received in October 2022, in full and final settlement. Dalriada concluded, on advice from its legal advisers, that it would not make sense on a costs-benefit analysis to pursue Mr and Mrs Mcauley any further.

Dalriada considered further action against a number of other individuals and entities connected to Arterial but decided this was not worth pursuing given the potential costs and the limited likelihood of any recovery.

Fraud Compensation Fund ("FCF")

As set out in our November 2020 Announcement, it was determined, following a ruling by the High Court, that the Fraud Compensation Fund ("FCF") is open to claims by occupational pension schemes that have suffered a loss as a result of an act of dishonesty.

Following the Court's decision, the FCF agreed to consider evidence relating to the Scheme, prior to receiving a formal claim application, with a view to providing an indicative decision as to whether the Scheme had suffered losses as a result of dishonesty and, as such, whether or not an FCF claim would be successful.

Dalriada submitted the necessary evidence and we are pleased to say that the FCF have concluded that there are reasonable grounds for believing there was dishonesty within the Scheme, and there are scheme asset reductions attributable to that dishonesty offence.

Since then, we have been working with the FCF and the accountants to calculate the value of the losses to the Scheme due to dishonesty. We can confirm that the compensation agreed by the FCF will include:

- payments made to Woodside Corporate Services Limited (in relation to the Arterial investment)
- payments made to IMAC Pension Services Limited
- payment to CJ Parm's Ltd
- payment to Wragge and Co LLP

Member Announcement

- bank charges
- trustee and legal costs incurred by Dalriada and our legal advisors since the date of our appointment and reasonable future costs (but excluding day-to-day administrative expenses, which are not compensable by the FCF)

This is clearly very positive news and Dalriada is delighted to have achieved this positive outcome on behalf of Scheme members.

Dalriada is now working with the FCF to submit a formal claim application on behalf of the Scheme. However, in order for the Scheme to be eligible for compensation, a Section 122 insolvency notice (Scheme Failure Notice) in respect of the sponsoring employer must be obtained. The Scheme does not currently meet this requirement and Dalriada is working closely with its legal advisers and the FCF to try and resolve this issue in order that a formal application can be submitted.

The final amount of compensation to be paid will be determined by a number of factors. We are currently working with the FCF on how to progress matters and we will provide a further update to members when more information is available.

What does this mean for members?

Dalriada understands that the dishonest acts undertaken prior to our appointment have had a major impact on the lives of members of the Scheme and that, until confirmation that an FCF claim was possible, there was a real prospect that this would result in a very poor outcome for members. We are pleased that we have been able to work with the FCF to secure a meaningful level of compensation against the benefits members faced losing.

We are moving towards being in a position to provide you with confirmation of the value of your benefits within the Scheme. There are a number of matters (as mentioned above) to work through before the Scheme can be put into wind-up and we can settle members' benefits.

Unfortunately, we cannot at this point confirm to members any timescales, but we aim to complete the outstanding steps as soon as is practicable.

Further Information about the FCF?

We have added a Frequently Asked Questions document on the Schemes' website here [Merseyside Care Retirement Benefits Scheme - Dalriada Trustees](#).

You can also visit the FCF's website for more information at - www.fraudcompensationfund.co.uk.

Member Announcement

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.

You can contact us as follows:

By Telephone: 028 9085 0934

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

By Email: Liverpooladmin@dalriadatrustees.co.uk

Other 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 the Money and Pension Service (MaPS).

Previously pensions guidance has been provided across the three consumer facing brands of MaPS: Pension Wise (PW), The Pensions Advisory Service (TPAS) and the Money Advice Service (MAS).

MaPS has now launched **MoneyHelper** where all retirement and pensions guidance has been brought together under one brand and one website: moneyhelper.org.uk.

Consumers can request an appointment by following the links, emailing virtual.appointments@maps.org.uk or by calling our the pensions helpline on 0800 011 3797.

These appointments are free and impartial.

The email address to the pensions guidance team for general pensions queries is pensions.enquiries@moneyhelper.org.uk

Issued by Dalriada Trustees Limited

July 2023