

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

Gresham Investment Pension Scheme
Abbot Blake Pension Scheme
Callahan Consulting Pension Scheme
Western Cross Pension Scheme
Gresham (2012) Pension Scheme
Daycroft Pension Scheme
Daley & Kyle Pension Scheme
Itchy Feet Pension Scheme
Fort Bruce Pension Scheme
Abbey Mage Pension Scheme
Dellaney Gibbons Pension Scheme
Llewellyn and Jones Pension Scheme
Palace Houghton Pension Scheme
Probert and Joel Pension Scheme
Regency Pension Investments Pension Scheme
Williams Bell Pension Scheme
Friendly Pensions Retirement Fund

Background

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

On 16 December 2014 the Pensions Regulator appointed Dalriada Trustees Limited (Dalriada) as independent trustee with exclusive powers to the Schemes. All trustee powers and rights are now held by Dalriada.

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.

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 the Schemes,
- b) to secure that the number of trustees is sufficient for the proper administration of the Schemes,
- c) to secure the proper use or application of the assets of the Schemes, or
- d) otherwise to protect the interests of the generality of the members of the 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 by the Determinations Panel following applications by the Pensions Regulator to the Determinations Panel requesting that the powers under section 7 be used. The Determinations Panel is a separate committee from the Pensions Regulator, in that it has a separately appointed membership and legal support. Dalriada have 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 Schemes' 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 Schemes.

It is not appropriate for Dalriada to comment in any detail in relation to the Determinations Panel's decision to appoint an independent trustee since this decision is subject to a compulsory review by the Determinations Panel.

However, there are concerns that the Schemes have been used as vehicles 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 as "commissions".

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 been running a campaign warning of the dangers of pension liberation. This has more recently been rebranded as "pension scams" since schemes offering cash from pensions are very often just scams –

www.thepensionsregulator.gov.uk/pension-liberation-fraud.aspx

Generally, schemes that are scams and/or are used for pension liberation have high charges and often invest whatever money is left after these charges in risky and unusual investments. This can result in members losing their entire pension fund.

Members are not usually told by those setting up the schemes about the risk of tax payments, the charges involved, or about the detail of the way in which funds are being invested.

What action have we taken so far?

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

We have received some member information in respect of the Schemes and are now in a position to contact members or potential members by way of this Announcement.

Dalriada is undertaking a detailed analysis of all the information it has obtained and will update members further once we are in a position to do so.

What does this mean for you?

Until further notice:

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

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

If you are in the process of transferring to one of the Schemes we recommend that you contact your existing pension administrator or provider and inform them that transfers into the Schemes 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 one of the Schemes' bank accounts.

If you are expecting to receive a payment, this will **not** come from the Schemes 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.

It is imperative that Dalriada obtain as much information as it can.

If the Schemes were used for pension liberation and/or were just scams, Dalriada will take whatever action it can to recover funds. To do this, it would be very helpful if members could:

- provide copies of any information you were provided with about the Schemes (for example a booklet or any other explanatory literature)
- say if you were provided with any information about how your pension fund would be invested
- confirm whether you were offered any form of cash payment (possibly by way of a loan) in return for joining one of the Schemes
- if you were offered a cash payment, confirm if the possible tax consequences were explained

- confirm if you received a payment and, if so, how much it was for, who arranged it and where was it paid from.

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 Schemes 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 Schemes' investments and established definitively whether pension liberation 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 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 9041 2094

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

Issued by Dalriada Trustees Limited

December 2014

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Regency Pension Investments Pension Scheme
Williams Bell Pension Scheme
Friendly Pensions Retirement Fund

Further to our previous Announcement issued in December 2014 we are writing to you to provide an update on the progress made to date in relation to the Schemes.

Background

As we advised previously, the Pensions Regulator (“tPR”) appointed Dalriada Trustees Limited (Dalriada) as independent trustee with exclusive powers to the Schemes on 16 December 2014. All trustee powers and rights are now held by Dalriada.

Dalriada’s role as independent trustee is as follows:

- to administer the Schemes,
- to manage the Schemes’ assets and understand the nature of all assets held,
- to act in the best interests of all members and beneficiaries,

- to assist tPR with any enquiries in relation to the management of the Schemes.

Dalriada's appointment to the Schemes was as a result of concerns that tPR had about the way the Schemes had been managed.

These concerns included:

- the abdication of trustee responsibilities, poor internal controls and a lack of knowledge and understanding on the part of the previous trustees,
- misappropriation of funds and payment of commissions in conflict of interest,
- pension liberation.

In particular tPR were concerned that the previous trustees who were responsible for the management and operation of the Schemes and who were required to act in the members' best interests at all times were, in fact, heavily influenced by an individual by the name of David Austin and effectively handed over their responsibilities as trustees to him.

Compulsory review

As we advised in our previous Announcement, the decision by the Determinations Panel to uphold tPR's request to appoint Dalriada was subject to a compulsory review. A compulsory review is necessary where an appointment is made under tPR's special procedure, as was the case here. Under the special procedure, the appointment of an independent trustee is made 'without notice' to the previous trustees and other affected parties and these parties are given the opportunity to respond prior to the Determinations Panel upholding or otherwise its decision.

In April this year, the Determinations Panel upheld their decision to appoint Dalriada and their Final Notice setting out the reasons has recently been published. The Final Notice can be viewed at the following link: <http://www.thepensionsregulator.gov.uk/regulate-and-enforce/published-determinations.aspx#s18853>

Investments

Dalriada now has control of the Schemes' bank accounts.

Dalriada has also carried out extensive work into how the funds paid into the Schemes have been used. Broadly, £13.8m was paid into the Schemes collectively, by way of transfer payments covering some 240 members in total.

The majority of the money paid into the Schemes (approximately £10.4 million) was purportedly invested in 'bonds' in two companies.

Bonds are a type of investment where money is lent to a company. In return, the company 'borrowing' the money is obliged to pay interest and to return the sum borrowed at some date in the future. Bonds can be a high risk investment if there is little by way of security in the event that the business fails and the business itself is not able to demonstrate a successful and profitable trading history.

The previous trustees appeared to have entered into these bond arrangements with little or no evidence of having taking the appropriate investment advice.

Both companies were under the control and ownership of David Austin or members of his family.

The first company was a pensions/IT start up company that offered an 'auto enrolment' solution. Auto-enrolment is the requirement for all employers to offer, and pay into, a pension scheme for its employees. This will be mandatory for all employers by 2018.

It was clear to Dalriada that the majority of the funds paid over (some £4m) had been spent and that the company would struggle to survive as a business without significant additional funding. The directors suggested a restructuring of the Schemes' investment and Dalriada took independent advice but the directors were, ultimately, unable to provide any reassurance to Dalriada that the business could secure sufficient investment to survive.

At this time, Dalriada understands that the company is considering whether to go into liquidation. Should this be the case, Dalriada will work with the relevant parties to establish what can be recovered on behalf of the Schemes.

The second company (Friendly Investments Company PLC – "FIC") was set up to invest funds in a range of 'green' investments. However, FIC went into administration on 10 July 2015. Administration is an insolvency procedure where it may be possible to rescue the company as a going concern or, otherwise, a better return could be achieved for creditors than by simply liquidating the company.

Dalriada has limited understanding of how the money paid to FIC has been used and is liaising with the appointed Administrator. However, it does not expect to be able to recover much, if anything, of the £6m invested in FIC.

Whilst there is some lack of detail around how precisely the monies paid to both companies have been used, Dalriada is aware that significant amounts have been paid to intermediate firms by way of commissions as well as to the previous trustees and to overseas companies under the control of members of Mr Austin's family.

The remainder of the Schemes' (excluding the Friendly Pensions Retirement Fund – see below) invested funds (approximately £2m) have been invested in largely illiquid property based investments (Freedom Bay, a fractional ownership (timeshare) in St Lucia and a property bond through Affinity Corporation). Dalriada is not able to say with any certainty what it will be able to recover ultimately. We have, however, now received the contractual interest payments due to date.

Friendly Pensions Retirement Fund (FPRF)

The entire investment made in respect of the FPRF (£120,000) was in the form of an unsecured loan to a company called Broadbridges Consulting Limited. This company was also under the ownership and control of David Austin or members of his family.

This loan is due to be repaid at the end of 2016, together with the interest due.

At this stage, we do not know if the loan is likely to be repaid but it seems that the company has little in the way of assets and, further, from information obtained from Companies House, it appears the company has no Directors currently. Given this, the prospects of any material recovery in respect of this investment also seem very limited.

Current position

Since its appointment, Dalriada has incurred significant costs in carrying out its investigations and, generally, in collating and reviewing the various information and documentation it has received and creating the necessary administration and accounting records.

There is very little in the way of liquid funds remaining in the Scheme that would enable Dalriada to consider commencing legal proceedings to recover funds.

TPR has powers available to it, specifically under the Pensions Act 2004, to pursue recovery of scheme assets. In exercise of these powers, tPR has recently commenced legal proceedings against a number of companies and individuals associated with the setting up and operation of the Schemes up to the point of tPR's intervention and who were considered responsible for the misuse and misappropriation of Scheme funds.

£400,000 of money to which the Schemes might be able to lay claim was identified. Steps were taken by tPR to seek an order from the Court formally freezing that money in the accounts where it was held. Ultimately, however, without needing to have a hearing at Court, it was agreed that the money should be held in a special account with the Court pending determination of the Schemes' entitlement to it. Certainly Dalriada is hopeful that a reasonable proportion of that money will be returned to the Schemes in due course. However, beyond this, at this stage, the prospects of any significant recovery of assets in relation to the bond investments appears to be extremely limited.

At least one of the individuals concerned has recently been declared personally bankrupt, which will make recovery from him extremely difficult.

Dalriada will also continue to investigate recovery of funds outside of the tPR's legal proceedings, to the extent that it is able, and considers it appropriate, to do so.

Dalriada remains keen to obtain as much information as it can and would repeat its request made in the last Announcement for members to supply copies of any information they have received or confirm the following:

- provide copies of any information you were provided with about the Schemes (for example a booklet or any other explanatory literature),
- say if you were provided with any information about how your pension fund would be invested,
- confirm whether you were offered any form of cash payment (possibly by way of a loan) in return for joining one of the Schemes,
- confirm, if you were offered a cash payment, if the possible tax consequences were explained,
- confirm if you received a payment and, if so, how much was it for, who arranged it and where was it paid from.

This information could be very helpful with regard to possible recovery of monies into the Schemes and Dalriada would like to thank those members that have already been in contact.

HMRC

As was mentioned in our last Announcement and earlier, there is evidence that the Schemes were used as vehicles for pension liberation.

Any member who has received a payment and has not yet reached the minimum retirement age (age 55) is potentially subject to a significant tax charge. It might be some time before the tax position is clarified but absent any information, HMRC could decide to tax members on the full value of the amount transferred into the Schemes and not just on any payment received.

Whilst, generally, it is not for Dalriada to get involved in individual members' tax affairs, those members who have received a payment as a result of joining the Schemes and have not yet reached the minimum retirement age (age 55) might want to think about raising the matter with HMRC.

Costs

Dalriada would confirm that its costs, legal costs and the costs of running the Schemes are met from Scheme funds. Whilst Dalriada will do all it can to minimise costs, because of the number of complex issues associated with these types of scheme, not least the work involved in trying to identify and recover investments, costs have been significant and have had a material impact on what little funds remained in the Schemes' bank accounts.

When will I be able to get information about my benefits or be able to draw my benefits or transfer my benefits out of the Schemes?

Until Dalriada is clear as to the value of the Schemes' investments and what HMRC's position will be with regard to tax charges, it is impossible for us to say what the value of members' benefits is, or will be, if anything. It may be some months and possibly years before we are able to do so.

However, as you will appreciate from the above, at this stage, there looks little likelihood that there will be any material recovery of funds. As such, even when it is in a position to place a value on members' benefits, this value is likely to be only a small percentage of the amount originally transferred in.

Dalriada appreciates that this will be concerning for members but feels it is important that members are aware of the situation.

Dalriada will progress matters as quickly as it can and will update members whenever something significant occurs or when we have important information.

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.

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This is our third Announcement which gives members an update on the progress made to date in relation to the Scheme and, in particular, gives an update on the legal proceedings that were commenced by The Pensions Regulator and which we reported on in our last Announcement.

The Pensions Regulator's Legal Proceedings

The Pensions Regulator (TPR) brought a claim under s.16 of the Pensions Act 2004 ("PA04"), seeking to recover funds lost due to the misuse and misappropriation of pension scheme assets.

Although members received some money, the majority of the rest of the funds have been lost and members have been exposed to the possibility of having to pay significant tax penalties.

As we commented in our last Announcement, Dalriada might have been expected to bring the claims but it did not have sufficient assets. Consequently, Dalriada was joined to the proceedings by TPR, attended the trial together with its solicitors, but was not formally represented at the trial by Counsel.

The total sums claimed by TPR exceeded £13m.

TPR's claim was brought against a number of individuals, including the previous trustees, David Austin, Friendly Pensions Limited and companies under the control and ownership of Nick Ayton (PAYAE Limited and Estrella Confero Limited).

In our previous Announcement we reported that TPR had managed to freeze £400,000 of funds which were funds linked to these companies. We also commented that Friendly Pensions Limited was considering entering liquidation, which it ultimately did.

TPR reached a settlement with Nick Ayton and the liquidators of Friendly Pensions Limited in 2016 and TPR's claim continued against the remaining defendants, being the previous trustees and David Austin.

The claim was heard in the High Court on the 5 to 6 and 8 December last year. The judgment was handed down on 23 January.

The High Court ruled that the previous trustees (Sue Dalton, Alan Barratt and Julian Hanson who was a Director of Friendly Trustees Ltd, trustee to the Friendly Pension Retirement Fund) and David Austin should repay the money they took from the Schemes.

TPR had asked for the High Court to make a restitution order on the grounds that the defendants "dishonestly misused or misappropriated" pension scheme assets – the first time such an order has been obtained.

TPR's evidence set out that Mr. Austin organised the transfer of funds from the Schemes into his own bank account and accounts of family members in the UK, Switzerland and Andorra and through businesses both in the UK and overseas, including Friendly Pensions Limited. TPR showed how Mr. Austin and his family enjoyed a luxury lifestyle using the Schemes' money.

The judge ruled that Mr. Austin had been the "mastermind" behind the scam but found that all four of the defendants had acted dishonestly.

A copy of the full judgment can found here <http://www.bailii.org/ew/cases/EWHC/Ch/2018/36.html>

Dalriada is now able to pursue enforcement of the judgment for the benefit of members. Dalriada would make clear though, that, contrary to what has been reported in some media articles, it has not been given a 'confiscation order' to take the assets of the defendants.

However, positive as the judgment is, we would sound a note of caution. Dalriada has already pursued some of the companies Mr. Austin was linked to, with the result that they were placed into insolvency by their directors. The Insolvency Practitioners subsequently appointed by Dalriada to review the actions of those companies prior to insolvency have been seeking to, and continue to seek to, trace funds that were paid directly to Mr. Austin or members of his family and others through those companies.

Much of the money has gone into overseas accounts and it will not be straightforward to identify and recover. There is a very real prospect that the money taken from the schemes will have been spent and prove difficult to recover.

Notwithstanding this, Dalriada will continue to work with its advisers and TPR to investigate all avenues for recovery and will use the judgment as support for its claims.

Investments

As we commented in our previous Announcement the majority of the Schemes' funds were invested through Friendly Pensions Limited and/or Friendly Investments Limited. However, there were monies invested (approximately £2m) invested in largely illiquid property based investments (Freedom Bay, a fractional ownership (timeshare) in St Lucia and a property bond through Affinity Corporation).

Whilst repayment of these monies by Mr. Austin and the previous trustees forms part of the judgment sum in the TPR's claim, Dalriada has continued, and will to continue, to determine whether there is anything that can be recovered from these investments.

However, Dalriada is aware that the company behind the Freedom Bay development has been placed into receivership in St Lucia and Dalriada is not a secured creditor. Dalriada and its legal team are working with lawyers in St Lucia to protect its interests as far as it can but, in reality, it is unlikely that any funds will be recovered from the investment itself.

The funds invested with Affinity are not due to be repaid until June 2023. However, contractual interest payments have been received and Dalriada is currently in correspondence with Affinity seeking an early redemption of this investment, but to date this has not been forthcoming.

Friendly Pensions Retirement Fund (FPRF)

As we commented in our last Announcement, the entire investment made in respect of the FPRF (£120,000) was in the form of an unsecured loan to a company called Broadbridges Consulting

Limited. This company was also under the ownership and control of David Austin or members of his family.

Broadbridges Consulting was ordered to be wound up in 2016 and liquidators were appointed. Dalriada is working with the liquidators but there is little prospect of any recovery from the liquidation.

However, as a result of the TPR's claim, both the previous trustee (Julian Hanson) and David Austin are jointly and severally liable for the return of monies to the Scheme and Dalriada will fully explore this, albeit with the same concerns as expressed previously as to recoveries which might be made.

HMRC

We have flagged previously that members may be subject to tax charges to the extent that the payments members may have received from the Schemes were unauthorised payments. However, we have still not received any advice from HMRC with regard to their approach, if any, to taxation.

Dalriada is continuing to press HMRC for some guidance and would remind members that HMRC could decide to tax members on the full value of the amount transferred into the Schemes and not just on any payment received. Those members who received a payment as a result of joining the Schemes and had not yet reached the minimum retirement age (55) might want to think about raising the matter with HMRC.

HMRC may also seek to levy an additional tax charge against the Schemes.

Current Position

Since its appointment Dalriada has incurred significant costs in carrying out its investigations and there are no liquid funds remaining in the Schemes. However, Dalriada will continue, as far as it is able and practical to do so, to try and enforce the claim on the back of TPR's successful judgment.

Dalriada will also continue to work with its lawyers and the liquidator to the various companies connected to the Schemes' investments with a view to identifying any possible recoveries.

In the case that we cannot recover funds, Dalriada will also consider alternative options for recovery. For example, through the Fraud Compensation Fund. However, we cannot confirm at this stage that the Schemes will be eligible for compensation.

So, despite the positive judgment in the TPR's proceedings, Dalriada cannot currently say what, if anything, it may be able to recover.

Unfortunately, Dalriada is not in a position to value any member benefits at this stage as it is unclear what the ultimate level of recoveries will be and whether the Schemes will be subject to tax charges by HMRC.

Dalriada will continue to keep members updated with any significant progress.

What should I do if I have further questions?

Should you have any queries in relation to this Announcement or with regard to your membership of the Schemes, please contact us.

You can contact us as follows:

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