Dalriada. A better way

Important Announcement to members of the following pension schemes ("the Schemes"):

The Broughton Retirement Plan
The DM1 Retirement Pension Plan
The Elphinstone Retirement Plan
The EP1 Retirement Plan
The Fleming Retirement Plan
The FP1 Retirement Plan
The FP2 Retirement Plan
The FP3 Retirement Plan
The Galileo Retirement Plan
The Golden Arrow Retirement Plan
The Leafield Retirement Plan
The Springdale Retirement Plan
The Talisman Retirement Fund
The Templar Retirement Plan
The Springdale Retirement Plan
The VRSEB Retirement Plan

Background

Dalriada Trustees Limited (Dalriada) wrote to you previously regarding your membership of one of the above named schemes and we now want to update members on the current position and the actions we have taken since our appointment.

On 5 July 2018 Dalriada was appointed by The Pensions Regulator (TPR) as independent trustee with exclusive powers to the Schemes. All trustee powers and rights are now held by us.
Prior to Dalriada's appointment the Insolvency Service had been acting as interim trustee.
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 The Pensions Regulator with any enquiries in relation to the management of the Schemes.

The Pensions Regulator had concerns that the Schemes were being used for pension liberation or were simply scams where members were at risk of losing some, if not all, of their pension fund.

Pension liberation occurs where individuals are encouraged to transfer their existing pensions to new schemes in the expectation of getting money from their pension fund before the minimum retirement age of 55 - either by way of a loan or some other form of cash inducement, often without being given the full facts about the risks and costs involved.

The Pensions Regulator has been running a campaign for some time, warning of the dangers of pension 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 unusual, high risk investments. This can result in members losing their entire pension fund.

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

Administration

Dalriada received copies of member files and a member database from the Insolvency Service (INSS).

Dalriada believes that funds in respect of member transfers were transferred from the ceding schemes into the bank account of a company called AC Management and Administration Limited (ACMAL). We do not know what role ACMAL performed in relation to the Schemes, other than to receive members' transferred funds. ACMAL ceased trading in 2013 and was replaced by Moneyplus Legal Limited.

Members' funds were then transferred from ACMAL (and Moneyplus) into bank accounts which were used by the Schemes. Some of these bank accounts were held in the Scheme name, others were corporate bank accounts.

Dalriada has taken control of those bank accounts held in the name of the Schemes.

Dalriada has contacted the relevant banks and former trustees to request copies of those bank statements relating to the corporate entities to support our investigations. However, to date we have been unable to get sight of the appropriate statements.

Without access to these statements, Dalriada does not hold the necessary accounting and financial records which would enable us to carry out a full reconciliation of the Schemes' financial history nor to prepare annual Reports and Accounts for the Schemes.

Dalriada has set up a helpline number and e-mail address (shown below) should members wish to contact us with regard to their membership of the Schemes or to provide further information – see the **'What should I do if I have any further questions?'** section below.

Investments

Dalriada has been working to gain an understanding of the investments made by the previous trustees. In order to confirm the figures invested and still owed to the Schemes outlined below, Dalriada, as commented above, has requested access to corporate bank statements from the relevant banks and former trustees. However, to date we have not had sight of those statements. As such, the summary of the investments below is based on information provided to the Insolvency Service by the previous trustees.

Affinity Corporation

Dalriada has established that around £1.25m was transferred from the Schemes to Affinity Corporation Limited.

Both the previous trustees and Affinity consider this investment to have been redeemed early. However, Dalriada is considering the information supplied by Affinity in this regard, in particular the terms of this supposed settlement.

Affinity Corporation Limited entered administration on 26 May 2019 and Dalriada has submitted proofs of debt to the administrators to protect its position, given the uncertainty around the settlement. However, the Schemes' claims in the administration represent unsecured claims alongside the other unsecured creditor claims. As such, the prospects of any return are limited.

Bridgebank Capital No.5 Limited (BCL Firmus Limited)

Dalriada understands that a total of £3.4m was transferred to BCL Firmus Limited from a number of the Schemes.

Bridgebank Captial No.5 Limited was in the process of being struck off Companies House prior to the Insolvency Service's appointment. A suspension of this process was granted at the request of the Insolvency Service. However, a further extension requested by Dalriada was rejected and the company was subsequently struck off on 16 October 2018.

Dalriada is considering what options it now has with regard to this investment, but it is unlikely there will be any recovery.

Deyse Investments SL and Property Exchange SL

Dalriada understands that Deyse Investments SL is an estate agency and Property Exchange SL is a construction company. Both companies are based in Spain and are owned by Mr Peter Moat. Mrs Sara Moat is a former trustee of the Schemes.

Approximately £7.5m was paid over by the Schemes to these companies. Despite numerous requests for information, Mrs Moat has failed to provide us with details surrounding this purported investment or contact details for her husband.

In addition, Mr Moat has ignored Dalriada's requests for him to make contact.

Gemilo Holdings Limited and Gemilo Holdings NC

Dalriada understands that £1.24m was loaned to Gemilo Holdings Limited by the Schemes. However, to date no documentation has been provided by the former trustees regarding this investment. A further £631,400 was paid from the Schemes to Gemilo Holdings NC, and Dalriada's legal advisors have written to Gemilo Holdings Limited to request return of monies invested in both entities.

The FP1 Scheme holds a charge over the assets of Gemilo Holdings Limited which strengthens Dalriada's position should the company become insolvent, depending on its asset position. Gemilo Holdings Limited was due to be struck off on 10 December 2018, however, Dalriada's legal advisers have maintained contact with Companies House and successfully requested that this action is suspended following our appointment as trustee to the Schemes. Strike off is currently suspended until 21 May 2020.

Jackson Wood Limited

Dalriada understands that an amount in the region of £1.8m in total was invested in Jackson Wood Limited by way of loans, spread across all of the Schemes.

Jackson Wood Limited was dissolved in August 2018.

Dalriada is considering what options it now has with regard to this investment, but it is unlikely there will be any recovery.

Umbrella Loans Limited

Dalriada understands that this is a pay day loan company. The intention was to repay the Schemes with proceeds from the individual loan repayments, however, we have not been provided with any formal documentation outlining the terms of the investment.

In addition, on 3 August 2015, 3 other loan companies connected with the Schemes (Blu Personal Finance Limited, Blu Financial and Firmus Secured Loans Limited) assigned their loan books to Umbrella. The total amount invested in these companies by the Schemes is in the region of £4.3m.

Blu Personal Finance was an organisation we understand to have been set up to provide loans to individuals. They obtained clients through use of unregulated introducers. It would appear that, to obtain a loan, clients had to first transfer their pension benefits into one of the Schemes. Potential clients were directed to Fast Pensions in order to facilitate a transfer of their pension. After their pension was transferred into one of the Fast Schemes, the loan money, together with a referral fee was paid over by the particular Scheme to Blu Personal.

There were 107 loans provided by Blu Personal, 48 of which were repayable on a monthly basis and the remainder repayable at the end of the loan term. We understand from the INSS that, at the time the company was put into wind up, only 8 of the monthly repayment loans were still be being paid and there does not appear to have been any action taken to recover those loans in arrears.

Firmus Secured Loans Limited was wound up by the Court on 18 August 2016 on the petition of HMRC. However, the INSS was advised that the loan book for Firmus Secured Loans Limited had been assigned to Umbrella prior to the company going into liquidation.

Umbrella Loans Limited was ordered by the Court to be wound up on 30 May 2018. The Official Receiver acted as provisional liquidator. However, subsequently, in February 2019, KPMG took on the role of liquidator.

Dalriada has submitted a proof of debt. However, again, the chances of any material recovery are low.

HMRC

As mentioned earlier, schemes involved in pension liberation potentially expose members and also the Schemes themselves to tax charges (Scheme Sanction Charges – ‘SSCs’).

The Fast Pension Schemes have been levied with SSCs totalling in excess of £750,000. Dalriada’s legal advisors have appealed against these charges to HMRC.

Dalriada has had some initial discussions with HMRC, but it will be some time before the tax position can be established and we can determine what impact this might have.

Costs

Usually, where a scheme is an occupational pension scheme, some, if not all, of the costs of running the scheme would be met by the employer. The employers linked to the Schemes do not appear to have ever actively traded, nor do they appear to have any assets or means to contribute to the costs of running the Schemes. This means that Dalriada's costs and legal costs, have been, and will continue to be, met from Scheme funds. The fact that there was no genuine employer behind the Schemes is further evidence that they were not conventional occupational pension schemes and might simply be scams.

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 setting up proper administration records and trying to identify and recover investments, costs will be significant and will, ultimately, impact on the value of the Schemes' funds.

At this time, there are no liquid funds held by the Schemes, nor realisable assets that we are aware of and, therefore, neither Dalriada nor its advisors are able to be paid.

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 years before we are able to do so.

Dalriada appreciates that this is frustrating and concerning for members. We will progress matters as quickly as we can and would repeat our request above for members to provide what information they can to help us in our investigations.

Dalriada will update members whenever something significant occurs or when we have important information. In any event, we will issue at least one Annual Statement. We also publish annual Chairman's Statements on the members website, as we are required to do by law.

However, should you have any questions or queries with regard to your membership of the Schemes, you can contact Dalriada at any time by any of the means set out later in this Announcement.

Financial Services Compensation Scheme

Dalriada has been working with the Financial Services Compensation Scheme (FSCS) to provide information and background on the Schemes that may aid claims members have made against a failed firm from which they received regulated advice.

The FSCS have provided the guidance below to assist members in understanding if they are eligible to make a claim:

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

Fast Pensions Ltd was not a FCA or PRA-authorised firm. But FSCS is aware that FCA-authorised advisers may have recommended transferring pensions or investments to Fast Pensions. Check the status of your adviser on the FCA register. [*https://register.fca.org.uk/*](https://register.fca.org.uk/)

Unfortunately, we haven't found any evidence to show that FCA-authorised or regulated firms were, or should have been, aware of Fast Pension's actions regarding pension money. This means we can't establish that these *firms may owe customers a civil liability regarding transfers to Fast Pensions. The result is that we're suspending our investigation into Fast Pensions Ltd.*

If your advisor was not FCA regulated when moving your occupational pension to Fast Pensions, 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. You'd be claiming against the quality of the checks they carried out when transferring your pension to Fast Pensions.

If your advisor was FCA-authorised, is still trading, and you believe you were misadvised to transfer your existing pension or to invest through Fast Pensions, 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 through Fast Pensions, you should submit a claim to FSCS against your financial adviser. You'll need evidence to show that the adviser was, or should have been, aware of Fast Pension's actions regarding pension money.

We may be able to restart our investigation if we receive this evidence against an FCA-authorised adviser.

Dalriada cannot give any advice in relation to claims to the FSCS. However, it is straightforward for individuals to make claims directly to the FSCS and it is anticipated by the FSCS and Dalriada that this will be done without the need for assistance or advice from third parties (for example, Claims Management Companies). The FSCS website can be found via the following link:

https://www.fscs.org.uk

Investigations by the Cheshire Constabulary

The Economic Crime Unit of the Cheshire Constabulary received a number of reports via Action Fraud relating to Fast Pensions as a business entity. In October 2019, after assessing the case in terms of investigative feasibility and resourcing, the Cheshire Constabulary announced that they would not be progressing their investigations into Fast Pensions any further.

They commented further that other options were available for members to consider and explore, including a civil claim/redress against those they believed were responsible. This would entail members pursuing their own private prosecution.

Pensions Ombudsman Decision

A decision made by the Pensions Ombudsman in respect of a scam scheme where Dalriada has been appointed as Trustee by The Pensions Regulator 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 set out in an appendix to this Announcement the main facts which led to the determination as well 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 The Pensions Regulator) 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 to the fact that this decision will also be considered by claims management firms and lawyers who may offer their services to members with an ongoing complaint, or to those considering making a complaint. In the case of 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. 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 had 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.

What should I do if I have any further questions?

Should you have any queries in relation to this Announcement or your membership of one 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 Post:	Dalriada Trustees Limited Linen Loft 27-37 Adelaide Street Belfast BT2 8FE
By Telephone:	02890 412090
Via email:	FastPensions@dalriadatrustees.co.uk

Issued by Dalriada Trustees Limited

February 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 (now the Money and Pensions 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 scheme which you ultimately joined? 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 scheme which you ultimately joined?
- Did your transferring scheme or provider ask you further questions about your reasons for joining the 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 your scheme was managed by your previous scheme or provider should be directed to your previous transferring scheme or provider, not to the scheme of which you are currently a member.

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 Money and Pensions 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 Money and Pensions Service and the Citizens Advice Bureau.

Many commercial organisations such as claims management firms 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 Money and Pensions 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 Schemes 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 on behalf of the Schemes to the extent possible. 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 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.