

Important Announcement to members of the Capita Oak Pension Scheme (“the Scheme”)

This Announcement is provided by way of an update to members.

As you are aware from previous Announcements, Dalriada Trustees Limited (Dalriada) was appointed as trustee to the Scheme by The Pensions Regulator (TPR) on 12 January 2017.

Dalriada’s appointment had the support of the Insolvency Service (INSS), given that it had no scope itself to manage matters fully.

Current Position

The Scheme made a single investment in storage pods with Store First Ltd, an unregulated UK based entity. Dalriada understands that approximately £9.8 million was invested. Note that the investment was in relation to the purchase of the **leasehold** of the pods only.

As we commented in earlier Announcements, since appointment, Dalriada had been in communication with Store First around the funds paid over and what funds might be returned to the Scheme.

One issue that Dalriada had been unable to resolve when dealing with Store First was establishing ownership of the storage pods. Store First's legal advisers were not prepared to accept that legal ownership in the storage pods had transferred to Dalriada in its capacity as trustee of the Scheme and, for some time, that meant Store First refused to acknowledge the Scheme's entitlement to any rental income from the pods. Dalriada, both directly and through its legal advisers, challenged Store First’s lack of acceptance of the Scheme’s legal ownership.

However, we also reported that the Secretary of State for Business, Energy and Industrial Strategy had presented a petition to wind up Store First Ltd and a number of associated entities. Originally, the petition was due to be heard in 2017 but, as we advised in our 2018 Announcement, was adjourned to a future date, as then unknown.

This petition was eventually heard, was successful and the commencement of the wind up of Store First and the associated entities began in April 2019.

Since the wind up of Store First Ltd commenced, neither the Official Receiver (acting as liquidator) nor Pay Store (the company managing the running of the pods since the wind up of Store First) have contested the transfer of ownership of the pods to Dalriada in its capacity as the new trustee. However, deficiencies remain in the contractual documents, meaning that the Scheme’s ownership of the pods has yet to be fully resolved.

There is now a further, significant issue that Dalriada has to address. Following a court ruling regarding individual ratable valuations in early 2019, Dalriada is now in receipt of rates bills for

each of the individual pods in most of the sites where funds were invested by the previous trustees.

To date, the total sum due to be paid from the Scheme is approximately £105,000. However, we have not yet received rates assessments for all of the sites. Dalriada has not yet paid any of the rates - not least as it did not have the funds to do so. We received Court summonses in respect of non-payment of some of the rates bills and were requested to attend Court on 3 December 2019. However, our request to adjourn this hearing was agreed. This was to be until the Council issuing the summonses takes further legal advice on the position.

Dalriada was made aware by the Official Receiver that it was holding funds in respect of rental income for the Scheme (around £400,000). The amount was not significant in relation to the £9.8 million paid over initially and Dalriada now has to consider the implications of ongoing rates bills versus the rental income - the latter not being guaranteed. It may be in the future that the rates bills outweigh the rental income due and so it is possible that it may be advantageous for the Scheme **not** to accept ownership of the storage pods.

Given the situation with regard to the rates and the fact that issues remain with the contractual documentation around the Scheme's ownership of the pods, Dalriada has decided to accept the funds held by the Official Receiver into the Scheme but to leave them untouched for the time being, until these issues are resolved satisfactorily. For the time being Dalriada has not accepted the funds as Scheme assets.

Leaving aside the issue of ongoing rental payments versus rates, we do not yet know what resale value the leaseholds on the pods might have, if any. Dalriada has been advised that the freehold of the pods have been sold by the Official Receiver to a company called Store First Freeholds Limited. We understand the Official Receiver did attempt to market the leaseholds on the pods as part of the liquidation of Store First but there was no meaningful interest shown in purchasing them.

The situation with regards to the pods is complex and ever-changing. As soon as we have any further information we will be in contact again. Our objective remains to deal with the pods as cost-effectively as possible and to try to deliver the best value from them in circumstances where the investment was inappropriate. For the time being, however, Dalriada remains unable to place a value on the benefits due to members.

Costs

At the time of our appointment there were no liquid assets or cash in the Scheme. Dalriada and our advisers have continued to work to progress matters with no certainty that we will be paid for any of that work.

As commented above, we are not treating the monies received from the Official Receiver as Scheme assets at this stage. However, should we accept that they are, they will need to be used to pay the rates bills (so circa £105,000 and rising) as well as Dalriada's fees and those of our legal advisers.

It is now a requirement for Dalriada to produce an annual Chairman's Statement in relation to the Scheme. The latest statement will include further information on costs and can be found here:

<https://www.dalriadatrustees.co.uk/scheme/the-capita-oak-pension-scheme/>

We understand that the Scheme may have offered members the ability to access their pension funds before the minimum retirement age of 55. There is a possibility that HM Revenue and Customs could classify such payments as “unauthorised”. Unauthorised payments usually incur significant tax charges on both the members and the Scheme in the form of a Scheme Sanction Charge. A Scheme Sanction Charge, if levied, would further deplete Scheme funds.

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 members in considering claims against a failed firm that they received regulated advice from.

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.

If your advisor was not FCA regulated when moving your occupational pension to Capita Oak, 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 Capita Oak

If your advisor was FCA-authorized, is still trading, and you believe you were misadvised to transfer your existing pension or to invest through Capita Oak, 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-authorized, is no longer trading, and you believe you were misadvised to transfer your existing pension or to invest through Capita Oak, 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 Capita Oak's actions regarding pension money.

You can check the status of your adviser on the FCA register. <https://register.fca.org.uk/>

We may be able to restart our investigation if we receive this evidence against an FCA-authorized 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 expected 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>

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 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 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 that this decision will also be considered by claims management firms and lawyers who may offer their services to members with an ongoing, or 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, 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 then the Pension Ombudsman's decision may differ from the decision in this case.

What you should do if you have any questions

As always, should you have any queries in relation to this Announcement or your membership of the Schemes, please contact us.

You can contact us as follows:

Email: capitaoakadmin@dalriadatrustees.co.uk

Telephone: 028 9041 2003

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

Dalriada. A better way

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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 IDRPs. 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 Scheme 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.