

Important Announcement to 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

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.

You can contact us as follows:

By Telephone: 028 9041 2094

By Post: Dalriada Trustees Limited
22 Great Victoria Street
Belfast
BT2 7BA

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

Issued by Dalriada Trustees Limited

October 2015