

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

Cranborne Star Pension Scheme
Grosvenor Parade Pension Scheme
Tallton Place Pension Scheme
The Lancaster Pension Scheme
The Portman Pension Scheme
Woodcroft House Pension Scheme

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

This Announcement and copies of all previous Announcements can be accessed from the members’ website - <http://dalriadatrustees.co.uk/ark/>.

Update on Beddoe Application

As explained in our previous Announcement, the hearing of the application by Dalriada for various directions from the Court, including the Beddoe application, commenced on 20 June 2017. At the hearing, the Judge, Mrs Justice Asplin, was satisfied that there was merit in Dalriada taking steps to recover the MPVA loan payments due to the fact that these payments had previously been declared void by the Court and should not have been made by the original trustees of the Schemes.

A copy of the Court order can be accessed using the link below.

<http://dalriadatrustees.co.uk/files/22062017-Court-Order.pdf>

Paragraph 4 of the order deals with the Beddoe application and explains that Dalriada has permission to issue and serve claims where standstill agreements have not been entered into. The order says that Dalriada has permission to take steps to seek recovery of the MPVA payments, such as sending what are called ‘pre-action protocol’ letters. A ‘pre-action protocol’ letter sets out what a party is seeking and the reasons for seeking it, before any Court proceedings are started. The purpose of the letter is also to allow the party who might become the defendant to Court proceedings the opportunity to set out their reasons for contesting the claim.

Letters to be sent to members who received MPVAs

As a result of the Court order, Dalriada has been working with its legal advisers, Pinsent Masons, to prepare a pre-action protocol letter to members who have received an MPVA payment. You will receive the letter from Pinsent Masons in the next week or so, asking you to repay the MPVA loan you received.

The letter will set out the next steps you need to take in relation to your MPVA loan . It is a letter that forms part of a formal legal process and is therefore quite lengthy and detailed. However, in summary, it will:

- Set out what you are due to repay

- Provide details of how to respond and the deadline for the receipt of responses
- Provide details of how to make payment or, alternatively, ask that you confirm that you intend to dispute the need to repay your MPVA loan
- If you intend to repay your MPVA loan but cannot do so now, give you the opportunity to set out your personal circumstances for Dalriada to consider how this might impact on your ability to repay your loan

If you believe that you are not in a position to repay the loan in full at this time it is important that you provide complete responses and supporting documentation. This will allow us to consider the merits of your case and decide how to take matters forward. A repayment plan spread over a period of time may be considered.

A complete lack of response or a failure to provide information or evidence supporting your inability to repay the loan may leave us with no option other than to seek to pursue your case through the Courts.

After receiving member responses, Dalriada will return to the Court to seek further guidance in terms of recovering the MPVAs. The Court is less likely to be supportive of members who have not cooperated with this process by refusing to answer the questions set out in the letter you will receive from Pinsent Masons.

Default judgment applications

A number of members did not enter into standstill agreements with Dalriada and it was necessary for Dalriada to issue Court proceedings against them. In most of these cases members have subsequently responded either by entering a defence or by entering into a further agreement with Dalriada to extend the deadline for them to submit a defence.

We are, however, now reaching a point where we need to take further steps in relation to these members. Dalriada has no desire to disadvantage any members who want to put forward defences to claims that have been served on them but where the Court proceedings are currently on hold. Equally, though, it has to look for the most cost-effective way of managing the costs of proceedings in the interests of all members.

Dalriada has been advised that it will be more cost-effective in these cases to obtain a default judgment.

At this stage, this only affects a few members and these members will be written to separately explaining what this means for them in more detail.

However, in relation to these cases and as a general point, please note that Dalriada **will not** take any steps to enforce the judgment without permission from the Court.

In addition, Dalriada will be prepared to agree to any judgment in default obtained being set aside by consent – and allowing a member to enter a defence if he or she chooses – **provided the member concerned responds fully to the letters about to be sent out seeking repayment of the MPVA loans.**

Please also note that the sums claimed in the default judgment orders are likely to include interest on the MPVA sums. The Court claims expressly include provision for interest to be paid although Dalriada will not take steps to enforce recovery of those amounts without permission from the Court either. We are currently seeking only to protect the position for each of the Schemes in the event that Court proceedings do need to be pursued. However, the pre-action protocol letters themselves will not be seeking any payment of interest.

As a general note, Dalriada would remind those members who have not entered into standstill agreements that this has caused additional costs to be incurred as a result of Court claims needing to be issued. Dalriada will be seeking recovery of costs from those members, as it would be unfair on other members for us not to do so.

Scheme sanction charge appeals

As set out in our last announcement, Dalriada was also permitted by the Court to pursue an appeal against the scheme sanction charges levied on the Schemes by HMRC. This is addressed at paragraph 5 of the Court order. The request for a release of scheme funds to pay for legal representation of test case members in the tax appeals was declined by the Judge. This is reflected in paragraph 6 of the order. As mentioned in our last announcement, Dalriada will see whether this can be revisited in due course.

Discussions are currently progressing with HMRC regarding the selection of test cases for the purposes of the tax proceedings.

Directions regarding administration of the Schemes

Following our last announcement, the Court did proceed to consider the numerous questions we had raised regarding the administration of the Schemes, particularly concerning the way costs and assets should be shared between the Schemes and then between the members.

The directions given in relation to each of those matters are set out in full at paragraphs 7 to 9 of the Court order. Each direction has given Dalriada discretion to decide on the most appropriate way to apportion costs and assets and ruled out less reasonable options that were considered at the hearing. This has helped Dalriada resolve areas of uncertainty.

Whilst it remains the case that Dalriada is still not able to make benefit payments (including transfer payments), given the ongoing steps to challenge the tax charges and to seek repayment of the MPVA loans, these directions do give clarification to Dalriada as to how it will be able to deal with these administrative matters once these outstanding points have been cleared up.

Transcripts

We have obtained transcripts of the hearing and are providing access to these via the below link. For those who are interested in reading in more detail what was said:

<http://dalriadatrustees.co.uk/files/20062017-High-Court-Open-transcripts.pdf>

For those members who do not wish to read the transcripts, please note that the decisions made by the Court are all recorded in the Court order we have provided access to.

Members should note that very limited parts of the hearing were held in private, and the transcripts for those elements have been redacted. These were brief occasions when Dalriada's Counsel was asked to talk to the Judge about the proposed claims to recover MPVA payments, and a separate occasion when Kim Goldsmith's Counsel was heard by the Judge without Dalriada present. This is standard practice for Beddoe applications.

Summary of next steps with MPVA's

1. Members who have received an MPVA payment(s) will each receive a letter from Pinsent Masons. This will set out clearly what action is required and what information is needed.
2. Members will have four weeks to respond to those letters and must ensure they meet the deadline provided.
3. Once responses have been collated and considered by us, together with Pinsent Masons, a further application will be made to Court to seek more directions as to how to deal with each individual claim. We will let members know when that application is going ahead and the related timescales.
4. In the meantime, some members may receive orders from the Court stating that judgment in default has been obtained against them and requiring payment in the very near future. Dalriada will not take any steps to enforce any such order until it has returned to the Court and obtained directions. That will only be after members have had a chance to respond to the letters that are about to be sent. If members wish to prepare a defence to a claim served by Dalriada, Dalriada will not object to the default judgment being set aside.

What you should do if you have any questions

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

You can contact us as follows:

Online: Use our Get in Touch form on our website: www.dalriadatrustees.co.uk/contact

Email: ArkAdmin@dalriadatrustees.co.uk

Telephone: 028 9041 2756

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