

**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**

Background

In this announcement we clarify some issues for members based on points raised in a circular letter to members of the six occupational pension schemes used for pensions reciprocation.

A copy of this letter has been provided to Dalriada by a member of one of the Ark Schemes and was emailed by Ark Commercial LLP on behalf of Athena Pension Services which is a trustee of the member's scheme. We understand that a similar letter may have been sent to members of other schemes by Minerva Pension Services where it is the trustee.

We also provide an update on the Court proceedings.

General Comment

The overarching objective of registered pension schemes is to provide benefits for their members in old age. Such pension arrangements enjoy tax reliefs and, to prevent abuse of those reliefs, there are strict rules governing the benefits which they can provide. Two key rules are that benefits cannot be taken before a member reaches age 55 and that only a maximum of 25% of a member's fund can be taken in cash form, tax free.

Trust based pension schemes, such as the Ark Schemes, have to be managed by trustees. Trustees are obliged to act in accordance with the scheme's own specific Trust Deed and Rules, legislation which has been laid down by Parliament and trust law which has been developed by the Courts. The Pensions Regulator has the power to appoint independent trustees if it feels schemes are not being appropriately managed, as is the case for the Ark Schemes.

It is clear that the Ark Schemes were established to facilitate a 'pensions reciprocation' arrangement under which members were able to get access to pension monies in cash, before the minimum age and in excess of the 25% limit permitted by the tax rules, by obtaining a loan from another scheme of which they were not a member.

Dalriada is aware that a number of members are in difficult financial circumstances and are depending on receipt of an MPVA payment.

Dalriada is not able to express a view on the tax treatment of pensions reciprocation arrangements.



However, it is necessary for any trustee to establish whether the making of such loans is an appropriate form of investment for a pension scheme to make, given that the overarching objective of the scheme is to provide pensions for its members.

The fact that members may have been happy to join a scheme operating on the pensions reciprocity basis, even if they understood and accepted all of the risks associated with it, does not, in itself, mean that the trustees may simply implement the arrangements because of this.

Trust law requires assets to be invested and dealt with prudently and appropriately, having regard to the core purpose of the scheme, which is to pay pensions to members.

Legal Opinion

In Athena's letter they refer to 'an Opinion from Tax Counsel that the scheme itself is legal'.

By 'scheme' Dalriada presumes they mean the pensions reciprocity concept.

As you know, Dalriada is seeking legal clarification as to the validity of MPVAs within the Ark Schemes. The Ark trustee companies have declined to make this Opinion available to Dalriada which they may arguably be entitled to do but it would be helpful to Dalriada if this was made available.

The fact that the letter refers only to an Opinion from "Tax Counsel" indicates that no analysis may have been undertaken of the more fundamental issue of whether these MPVA arrangements are valid and effective under general trust law, or are appropriate for any pension scheme.

Before it can be sure how to administer the Ark Schemes, Dalriada requires definitive guidance from the Court on these issues.

Ark Fees

Dalriada is of the view that the 5% upfront charge is excessive and not 'properly incurred' as required under the Rules of the Ark Schemes. The figure is an arbitrary percentage of the sum transferred by an individual into one of the Ark Schemes, resulting often in a substantial payment, unrelated to the work involved in effecting the transfer and arranging the MPVA. Further, the previous trustees were unable to provide copies of contracts detailing the terms of Ark's appointment to provide administration services. In a seven month period between October 2010 and May 2011, Ark and introducers took over £1m in charges. Whether members 'agreed to pay' or not does not make such level of charging appropriate. Again, the key is that these schemes are occupational arrangements and wider consideration of pensions and trust law needs to be taken into account, not mere acceptance of the charges by members.

Investments

In Athena's letter they comment that "They [Dalriada] also warn that investments made with the money that remains in the scheme may or may not grow large enough when you retire to match



the money paid to you via the PRP scheme. It does not appear to matter to them if you are fully aware of this and consented as an adult to this or not.”

Dalriada has not made any comment on the ability of members to repay any loan they may have received through an MPVA. However, it is not the case that reference should only be made to whether an individual member is aware of the risks and potential pitfalls and consented to them, as might be the case with a personal pension. With occupational arrangements like the Ark Schemes, investments need to be of an appropriate nature to ensure the long-term financial security of all scheme members' benefits collectively.

Notwithstanding this, Dalriada is not aware that members are *fully aware of this*. Indeed, the literature Dalriada has seen suggests that a 9% annual return is achievable such that members can repay any loan they have received through an MPVA using the tax free cash sum available to them when they draw benefits. Dalriada has received a number of enquiries from members expressing concern over the value of their pension benefits.

Dalriada has considered the pie charts, provided by Athena, showing the breakdown of the investments by scheme. It is unclear how these pie charts have been compiled given comments from the solicitors for Ark and the previous trustees about a lack of documentation in their possession. However, these pie charts do not, in any event, give a proper reflection of the nature of the purported investments.

Firstly, you will note that over 50% of the investments are tied up in MPVAs. These are, effectively, unsecured loans. Fundamentally, a significant proportion of the value of members' pensions is dependent on the ability, willingness or otherwise of other members to repay their loan payments a number of years into the future.

Some members have requested transfer values – what value should Dalriada place on a pension fund where 50% of the value is tied up in loans with no immediate value and no guarantee of repayment on maturity?

Secondly, neither Ark nor the previous trustees have supplied any meaningful information about the various property investments. Dalriada has had to perform much due diligence and research of its own. Some of the investment managers have also been uncooperative.

Entrepreneurs Capital Holdings

Dalriada has still to properly establish the nature and, more importantly, the present value of the £1m invested with Entrepreneurs Capital Holdings.

Freedom Bay

Dalriada has established that the investment in Freedom Bay amounts to an entitlement to a number of fractional ownership certificates in a villa development (effectively a time share). Construction of the development has not yet started and is not due to be completed before December 2013. The investment has no immediate realisable value.



Cyprus

Dalriada has established that the investment in Cyprus amounts to the option to buy the shares in a company that owns a plot of land near Larnaca. The land has planning permission to build some apartments but, again, no building work has commenced.

Before it will transfer the shares, the company that purportedly owns them is currently demanding a further £2.6m 'owed' under the agreement purportedly entered into by the previous trustees. This is to follow the sum of £4m that was paid by the previous trustees to the company before Dalriada became involved.

In addition, the trustees would be expected to fund the subsequent development costs therefore requiring potential further significant expenditure.

Dalriada has very serious concerns over the viability of this project given advice it has received regarding the property market in Cyprus. On the basis of the information currently available it seems unlikely that the land is worth anything like the sum the previous trustees agreed to pay for the company which owns it.

It will be some time, if ever, before the investment is able to produce any sort of return by way of rental income.

The previous trustees have not provided copies of any advice they received as regards this investment. Again, the investment has no immediate realisable value.

HYPER

The HYPER investments amount to investment in a property unit trust. Dalriada has been told units will be listed and, in theory, tradable on the Channel Island stock exchange. However, despite being told they should be listed at the end of June, this has yet to happen. Little or no return is anticipated from these investments for the first five years of the term of investment. So, again, no immediate realisable value.

Legal costs

Athena comment that Ark is paying for its own legal bills. Dalriada would point out that the solicitors for the Ark trustees specifically asked for their costs of participating in the Court proceedings, including legal costs, to be met from members' funds. Dalriada has not approved this request given those trustees no longer have any powers as a result of the Regulator's ruling.

Further, as the Ark trustees also point out, Mr David Faulds has agreed to represent the members in the Court proceedings. Mr Faulds has obtained legal representation through solicitors, Gateley, who, in turn, have instructed a barrister. All Mr Faulds' reasonable costs (which will include the cost of the solicitors and barrister) are also being met from the assets of the Ark Schemes.



Dalriada's costs

Dalriada's costs for managing the Ark Schemes are being met from the assets of the Ark Schemes. Dalriada has been provided with express power to have fees and expenses paid out of the resources of the Ark Schemes pursuant to section 8(1)(b) of the Pensions Act 1995.

Dalriada recognises that their costs will impact on members' funds. This is an unavoidable consequence of the action of the Ark trustees in entering into the MPVA arrangements without firmly establishing that they could be legitimately made.

Costs to date have been considerable – these include:

- The review of membership records received from Ark and, thereafter, the construction of an appropriate database and record keeping system because Ark and the trustee companies had failed to maintain proper scheme membership records (or at least if they did hold such records they failed to hand them over despite being legally required to do so).
- A complete analysis of the Ark Schemes' banks accounts, reconciliation of payments in and out to the membership data, and painstaking creation of proper accounting records because Ark did not have proper accounting records in any accepted sense of the term (or at least if they did hold such records they failed to hand them over despite being legally required to do so).
- Extensive research into the Ark Schemes' investments and pursuit of investment managers which was necessitated by Ark and/or the Ark trustees failing to hand over investment details requested despite being legally required to do so.
- Preparation of Court actions and associated legal costs.
- Dealing with a (not surprisingly) high level of member queries.

Dalriada is currently preparing audited accounts for all 6 Ark Schemes to 31st May 2011. Thereafter, Report and Accounts will be produced annually, and these will include a summary of expenses incurred. There has been significant costs incurred at the outset of Dalriada's appointment and unfortunately we expect these costs to remain at a high level. Dalriada expects costs to even out over the coming months but this will depend to a large extent on the outcome of the Court actions.

Dalriada is aware of certain comments being made on some member forums to the effect that it is deliberately incurring costs, for example responding to member queries by post rather than e-mail.

To be clear, Dalriada's aim is to be as efficient as possible and not to incur cost unnecessarily. Dalriada will always respond by phone or e-mail where this is possible and appropriate and does not simply respond to member queries by posted letter as a matter of course.



The Ark trustees have made a specific point about the use of security guards. Following Dalriada's emergency appointment and the Pensions Regulator's concerns leading to that appointment, Dalriada needed to immediately obtain documents relating to the Ark Schemes. This is because Dalriada became legally responsible for the operation of the Ark Schemes from the date of appointment.

Dalriada called at the premises operated by Ark to obtain scheme records and documentation that it had a legal right to obtain as a result of Dalriada's appointment.

To ensure the safety of Dalriada's employees and to assist in the collection and removal of files a security firm was used on this single occasion.

Scheme Documentation

On the link www.dalriadatrustees.co.uk/ark, documentation is available for download from the website including:

- Copies of the Trust Deeds & Rules of the six Schemes used for pensions reciprocity
- A copy of each Scheme's Internal Dispute Resolution Procedure
- Copies of all the Announcements issued to date
- Audited Accounts for each Scheme (once the audits have been completed).

Other relevant documents will be added over time so please keep checking the website for updates.

It is hoped that making material available on the website will reduce the number of, and so time spent dealing with, member enquiries.

Individual Members – legal action

The Ark trustees are encouraging members to seek independent legal advice, which will inevitably cost individuals further expense and which can be avoided if members await the outcome of the current Court proceedings.

These proceedings represent the best and most cost-effective means of determining how to deal with the funds of individual members. Commencement of separate proceedings will, in fact, only force Dalriada to incur additional legal costs, which would also need to be paid from assets of the Ark Schemes.

Whilst members are, of course, perfectly entitled to seek their own legal advice, Dalriada strongly recommends members hold off from taking any steps until the Court proceedings have been allowed to progress. The decision of the Court in those proceedings will be binding and enable Dalriada eventually to answer all questions from members regarding their individual situations without the need for individuals to incur separate legal fees.



It is very likely that Dalriada would seek a stay of any separate proceedings commenced by individual members pending completion of the existing Court proceedings.

MPVA payments

Athena question why Dalriada is not issuing any further MPVA payments and there is ‘no legitimate reason for this’.

Dalriada is of the view that the use of pension scheme assets to provide unsecured loans is inappropriate and a potential misuse of the trustees’ investment powers. One of the main purposes of the Court proceedings is to determine whether the MPVAs are legally valid or not. Pending a decision from the Court, Dalriada considers it would be inappropriate for it to make any further MPVA payments.

Ark’s solicitors (Freedmans Law) – Press Release

“without seeking any explanation from Ark and, as yet, without even wishing to discuss the matter with Ark” – information has been requested from Ark, both by Dalriada and by the Pensions Regulator, particularly with regard to scheme investments. Ark and the previous trustees have largely failed to provide any meaningful documentation, in particular any advice they have received prior to making the investments, any contractual documentation or evidence of title or a proper audit trail as to where the monies have been paid. Dalriada also sought a follow up meeting with Ark shortly after its initial visit to collect records and files. A meeting was declined by Ark.

“Not aware of a ... member complaining about .. the way in which assets are invested” – Dalriada suspects this was because the true nature of the property investments (as summarised above) was never properly disclosed to members.

The comment by the Ark spokesman ***“One might ask why shouldn’t someone earning low if any growth in their pension, be free to choose to access money to pay off, say crippling debt?”*** – Dalriada interprets this as why shouldn’t a member be allowed to cash in their pension early. Fundamentally, to cash in a pension early (before age 55) is illegal. Ark is attempting to circumvent the law, ignoring the obligations placed on trustees to properly manage pension fund investments to provide benefits in the long term. Pension schemes are not short term savings plans that can be dipped into at will. There are alternative savings plans for those individuals who require early access to their funds: a pension scheme is not the right vehicle.

Ark and its associated companies have provided individuals, often individuals in extreme financial hardship, with the opportunity to access funds, achieving this by promoting a ‘scheme’ (i.e. the pensions reciprocation plan) of questionable validity to the extent that it allowed access to pension funds before age 55.

Whilst pensions reciprocation was promoted as entirely legitimate, any credible pensions professional would accept that it carried risks. The Regulatory authorities can impose significant tax penalties in situations where they feel the tax advantages have been abused. No warnings



appear to have been given as to the potential tax implications if the Ark Schemes were deregistered by HMRC.

Ark was not regulated by the Financial Services Authority. Ark and the trustees contrived to keep each Master Pension Scheme membership below 100 members so as to bypass some of the more stringent investment requirements for 'larger' schemes.

Individuals, not unsurprisingly, were attracted by the promise of readily available funds. Ark and the previous trustees made the monies available, then paid themselves large fees and made, what Dalriada considers to be, speculative property investments with the remaining monies. Little, if any, thought appears to have been given to their obligations as trustees to properly manage scheme assets on behalf of their members.

Dalriada is a professional trustee company and will strive to manage the situation as best it can. Unfortunately, significant reductions in members' benefits, relative to the amounts transferred in, are inevitable.

Update on Court proceedings

Dalriada's lawyers have successfully applied for the Court proceedings that will determine the legal status of the MPVAs to be expedited. This means that the trial, at which the initial key questions will be considered by the Court, will take place significantly earlier, perhaps a full year earlier, than it would do if it were simply scheduled by the Court in the same way as any normal case. The hearing will take place at the end of November or in early December 2011. The Court has made it clear that, despite Dalriada's efforts, November 2011 really is the earliest point at which a hearing could take place.

In addition, Dalriada is currently awaiting the response from Mr Faulds and the previous trustees to the claim that was served in July, which will be required in advance of the eventual hearing. Those parties have requested, and been granted by the Court, an extension of time to prepare their responses.

Once the hearing has taken place, the Court will provide directions regarding the status of the MPVAs. It is very likely that the parties will then need to prepare for a further hearing to address consequential questions, since it would not be possible, or sensible from a costs perspective, to address all matters at one hearing. Dalriada will, however, look to progress subsequent stages of the Court proceedings as quickly as possible and hopes that the other parties will assist with that as well.

Dalriada will provide a further update regarding the proceedings in due course.



Other issues

Transfer Values

Dalriada understands members' concerns regarding the value of their pension funds. One of the purposes of the Court proceedings will be to determine what value can be assigned. Until those proceedings have been completed, it is impossible to assign a value.

Dalriada has advised the Pensions Regulator of those cases where it has, or will, breach the statutory three month time limit for providing a transfer value quotation. The Pensions Regulator has acknowledged these breaches but has confirmed it will take no further action at this stage.

Dalriada would expect the 'value' of a member's benefits to be calculated in proportion to the value of the assets of that member's Scheme as a whole. Generally, where members do not make an explicit choice as to how their funds should be invested, members share, collectively, any gains and losses through investment performance and, also, any scheme expenses. All of the Ark Schemes are occupational arrangements, not 'personal pensions'. As such the trustees, now Dalriada, are obliged to consider the interests of all members and potential beneficiaries. Dalriada cannot look to treat one member, or category of member, differently to another.

Ultimately, losses suffered from the investments made by the previous trustees are likely to impact on fund values much more significantly than any costs incurred since Dalriada's appointment.

Dalriada Trustees – October 2011