

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

The Visolaris Pension Scheme

Further to our previous Announcement issued in May 2019, we are writing to you to provide an update on the progress made to date in relation to the Scheme.

Background

As we advised previously, The Pensions Regulator (“TPR”) appointed Dalriada Trustees Limited (“Dalriada”) as independent trustee with exclusive powers to the Scheme on 26 March 2019. All Trustee powers and rights are now held by Dalriada.

Dalriada’s role as independent trustee is as follows:

- To administer the Scheme
- To manage the Scheme’s 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 Scheme.

Administration

Dalriada received hard copies of member files that were taken from the offices of the previous administrators, Warwick & Eaton, on our appointment as Trustee to the Schemes.

Based on these records we have created administration records on our computer systems. However, we remain unable to fully reconcile the data and would ask those members who have not yet completed the self-certification form included in our previous Announcement to do so. Please let us know if you require a further copy of this and we will forward a copy of this to you.

Please note that Warwick & Eaton Administrators are not able to respond to your queries on the Scheme.

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

General Data Protection Regulations (GDPR)

Previously, organisations were required to comply with the Data Protection Act 1998. This Act governed the collection, storage and use of personal data held electronically or in paper records. It provided guidelines on how companies should create, store, handle or view personal data. From 25 May 2018, this Act was replaced by the General Data Protection Regulations which came into direct effect across the EU. The UK will continue to comply with these regulations following Brexit.

Dalriada Trustees Limited, as trustees of the Scheme, has a policy for meeting our obligations under GDPR and we are pleased to enclose a Privacy Notice that sets out this policy for your information. In particular, we would like to draw your attention to the following key points:

- Individuals have increased rights under the GDPR in relation to their personal data which include, in certain circumstances, the right of access to data and rectification and erasure. We hope you understand that we need to hold your data in order to be able to determine any benefits and to answer any questions about your entitlement.
- Under the GDPR, members have the right to obtain access to their personal data by way of a Subject Access Request (SAR). Members will not be directly charged for making this request and a response should be received within one month of the request.
- The general management and administration of the Scheme, including responding to Subject Access Requests, incur costs against the Scheme and therefore, should you wish to make a Subject Access Request, we would ask you to call Dalriada in the first instance on the number provided below.
- Where a Subject Access Request is received from a third party on behalf of a particular member, Dalriada's obligations are to provide the necessary information to the data subject directly i.e. to the member. Therefore we would like to reiterate that where a member is pursuing a claims through a third party that they contact Dalriada in the first instance.
- This GDPR notification does not affect your benefits entitlement in any way.

Investments

Since our appointment, Dalriada has been working to gain an understanding of the investments made by the previous Trustees. A summary of the investments is outlined below:

Scarisbrick Hall & School

Dalriada has established that shares totalling £9,600 were purchased in Scarisbrick Hall & School in the form of 10 Year Class A Shares into the Private Limited Company that operates the Private School. A number of shares had been bought back at a discount prior to Dalriada's appointment and the funds raised were used to pay member drawdown requests. Dalriada had been in discussions with Scarisbrick about buy back options for the remainder of the shares, however given the current economic climate as a result of COVID-19 Scarisbrick have put these discussions on hold.

Visolaris Limited

An amount totalling £9,400 was paid to Visolaris Limited from the Scheme representing Loan Note purchases on behalf of members. Dalriada understands Visolaris to be an investment in a renewable energy business with interests in solar, wind turbines and alternative energy production. The information that we hold to date is limited and we continue to try and gather information on the detail of this investment.

Bio Green Energy Limited

£9,500 was paid into Bio Green Energy Limited, representing an investment into the development of a series of renewable energy projects centred on Anaerobic Digester Plants in Northern Ireland. Dalriada understands that an amount had been repaid to the Scheme prior to our appointment and used to honour member drawdown requests. Bio Green then defaulted on the remaining interest payments to the previous trustees. An administrator was appointed to the company in May 2017, who have been providing Dalriada with regular progress reports. However, it does not seem likely that any funds will be recovered.

Smile Cosmetics Clinic Limited

£12,000 was paid to Smile Cosmetics Clinic Limited, the sponsoring employer behind the SCCL Pension Scheme. Dalriada has requested information regarding these loan notes, however, understands that the principal business of the company was sold in 2015. Dalriada is looking at alternative options with regards to this investment.

Efforts continue to engage with the above entities, and as a result until further notice:

- No further contributions or transfers in will be accepted into the Scheme.
- No payments will be made to, or in respect of, any members of the Scheme.

These steps are necessary whilst Dalriada looks to obtain all relevant information on the assets and liabilities of the Scheme and to clarify the basis on which the Scheme should be administered and managed.

If you are expecting to receive a payment, this will **not** come from the Scheme and Dalriada will not be making any payments.

Fraud Compensation Fund Ruling

Dalriada has been working with the Pension Protection Fund (“the PPF”) to seek clarification around the operation of the Fraud Compensation Fund (“the FCF”) in order to determine if a claim could be submitted to the FCF for compensation in relation to the Scheme.

The judgment was handed down on 6th November, and an email was issued to members containing a link to an announcement on the judgment. In the event you did not receive the email, the announcement is available to view on the member website linked at the end of the document.

Please note that no action is required from members of the Scheme at this time in relation to the judgment.

Recent Pensions Ombudsman Decision

A recent decision made by the Pensions Ombudsman in respect of a scheme where Dalriada has been appointed as Trustee by TPR 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 scheme. The grounds for his complaint were that the Authority that governed his scheme transferred his pension fund to the scheme without having conducted adequate due diligence checks on it and failed to provide him with a sufficient warning, as required by TPR, 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 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 are 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 that if the transferring scheme can demonstrate that it 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.

Financial Advice

From the records we have received, it is our understanding that transfer advice was not taken by the membership at large. Rather, members may have corresponded with unregulated introducers.

However, if members are unhappy with a financial product or service that may have been provided to them then members are able to complain to the firm directly. The Financial Conduct Authority's ("FCA") guidelines on how to complain are accessible online:

<https://www.fca.org.uk/consumers/how-complain>

Financial Services Compensation Scheme ("FSCS")

The FSCS can consider claims against firms providing advice that have now failed.

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

The FSCS may also need to be satisfied that the firm being claimed against was FCA (or PRA) authorised. You can check the status of your advisor on the FCA register:

<https://register.fca.org.uk/>

If your advisor was not FCA regulated when transferring your pension, we understand that the FSCS cannot 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 as is noted above. You would be claiming against the quality of the checks they carried out when transferring your pension.

If your advisor was FCA authorised, is still trading, and you believe you were misadvised to transfer your existing pension or to invest, 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, you should submit a claim to FSCS against your financial adviser.

Dalriada cannot give advice in relation to claims to the FSCS. However, the FSCS exists to make it easy for individuals to contact it. The FSCS website can be found via the following link:

<https://www.fscs.org.uk>

Cold Calling

Unsolicited calls about your pension became illegal on 9 January 2019. Companies that make unwanted, unsolicited phone calls to people about their pensions may face enforcement action, including fines.

The ban prohibits cold calling in relation to pensions, except where the caller is authorised by the FCA, or is the trustee or manager of an occupational or personal pension scheme, and the recipient of the call consents to calls, or has an existing relationship with the caller.

If you receive a cold call about your pension, get any information you can, such as the company name or phone number and report it to the Information Commissioner's Office via their website or on 0303 123 1113.

Claims Management Companies

Dalriada have become aware that a number of Claims Management Companies ("CMC") have made contact, or have indicated to us that they want to make contact, with members in order to assist with individual applications to the FSCS for compensation, or other such methods of redress.

CMCs themselves are regulated by the FCA; however, the whole point of entities such as the FSCS is that it should be easy for claimants to make claims for themselves. The procedure is free, and the guidance from the FSCS on its own website specifically encourages individuals to make their own claims without incurring costs or offering a cut of compensation to another party in return for assistance.

If compensation is awarded, that compensation is for the benefit of the claimant. A CMC will always want to enter into a contract for their services, with a fee structure based on success. This fee is often 20% to 40% of compensation paid. To put this into cash terms, if the FSCS made an award of £50,000 then, based on a 20% fee agreement, the CMC would be entitled to £10,000 of that compensation. This is regardless of how much work is done and often this would be just filling in a simple online form.

In addition, members should proceed very cautiously if approached by either a CMC or financial advisor where there is no existing relationship. As noted above, there is now a ban on cold calling in relation to pensions so such approaches might be in breach of that and, as a result, liable for criminal action.

Scams

Dalriada shares TPR's fears that the impact of Coronavirus (COVID-19) on markets and personal finances may make members more vulnerable to scams.

We wish to make members aware as to the risk of scams and be able to spot scam warning signs. We strongly advise members to visit the ScamSmart website for more information –

<https://www.fca.org.uk/scamsmart>

<https://www.fca.org.uk/scamsmart/how-avoid-investment-scams>

Member websites:

Dalriada has set up a dedicated member website for the Scheme. Dalriada will make available through the website copies of all Announcements, alongside any relevant governance documents.

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

Contact Details

In order to ensure that members receive a copy of this Announcement, we have issued it by both post and email to the address/email address we hold on file for you. If you have only received this Announcement by post, please contact us to ensure your email address is up to date. Similarly, if you have only received this Announcement by email, please contact us to ensure we hold the correct postal address. You can contact us using the details outlined below.

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 Scheme, 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 Scheme.

You can contact us as follows:

By Telephone: 028 9041 2757

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

Via email: administration@dalriadatrustees.co.uk

Issued by Dalriada Trustees December 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 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 Scheme 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 Scheme 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.

Data Privacy Notice

Background

This statement sets out how Dalriada Trustees Limited ("Dalriada") in its capacity as Trustee of The Visolaris Pension Scheme handles personal information in compliance with the General Data Protection Regulations (the "Regulations").

We recognise that the correct and lawful processing of personal data is important and integral to our successful operations and to maintaining the trust of the people we deal with. We fully endorse and adhere to the principles set out under the Regulations.

For the purposes of this statement, the term "personal data" shall refer to personal data and sensitive personal data.

Dalriada may act as Data Controller and a Data Processor in relation to the handling of the personal data and sensitive personal data of the persons/organisations we deal with.

Purpose and legal basis for processing the personal data

The personal data that Dalriada may hold includes, but is not limited to, your name, address, date of birth, National Insurance details and marital status, as well as details of your children or other beneficiaries. Where we have it, we may also hold details of your salary history, membership dates and any contributions to your pension scheme. In addition, we may retain your medical history, as this may affect your pension entitlement.

The reason we need to hold and process this data is so that we can properly administer your benefits and pay your pension and other benefits when they are able to come into payment.

Dalriada may from time to time share this data with a regulatory body or a professional adviser to the scheme, in order to manage the Scheme and your benefits. Dalriada may also share the personal data with insurers to ensure that we provide your benefits in the most cost-effective way.

As Data Controller, Dalriada has a legal obligation to administer and pay your benefits from your scheme when it is able to do so. We will therefore hold and process your data on this legal basis. Dalriada and our advisers have each our own legitimate interests for processing your data. You may object to the processing of your personal data on this basis, but your objection may be rejected by Dalriada if there are compelling reasons to do so.

When Dalriada is required to process your sensitive personal data, such as your medical records, we shall seek your explicit consent to do so. You may withdraw your consent to processing on this basis at any time.

Dalriada will hold and process your data for as long as we are legally required to do so, are responsible for payment benefits from the scheme or for protection of our legitimate interests, and in line with regulatory requirements. As pension benefits are a long-term undertaking and queries can arise many years into the future, it is not possible to give a specific period for which the data will be stored.

Individual Rights

Dalriada will fully respect your rights under the Regulations including:

- You have the right to make a subject access request for free, which can be made electronically
- You have the right to make a subject access request to verify the lawfulness of the processing we are carrying out
- We will respond to your subject access request within one month of you making it
- You can request to correct your personal data if it is inaccurate, incomplete or out of date, or request the deletion of your personal data
- You may obtain a copy of your personal information from us, except in limited circumstances
- You have the right to complain to the supervisory authority whose contact details are set out below.

Complaints

Complaints relating to breaches of the Regulations and/or complaints that an individual's personal data is not being processed in line with the Data Protection Principles will be managed and processed by Dalriada, as trustee.

All complaints of dissatisfaction will also be processed in accordance with your scheme's Internal Dispute Resolution Procedure (IDRP) and should be sent to:

Trustees of the Visolaris Pension Scheme
Linen Loft
27-37 Adelaide Street
Belfast
BT2 8FE

Without prejudice to any administrative or judicial remedy, you have the right to lodge a complaint with the supervisory authority, the Information Commissioner's Office (ICO), if you consider that the processing of your personal data infringes the principles of the Regulations. Their address is as follows:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF