

Important - Second Announcement to members and potential members of the following pension schemes (“the Schemes”)

Herman and Peters Retirement Benefits Scheme Grey Peak Retirement Benefits Scheme

Background

We initially wrote to you on 14 May 2013 as we believed that you may have joined one of the Schemes and transferred-in pension benefits from a previous arrangement or are in the process of considering (or have previously considered) such a transfer. Whilst this announcement covers a number of the same points, it also updates members on a Court hearing which has been listed in mid- July.

The Pensions Regulator has appointed Dalriada Trustees Limited (Dalriada) as independent trustee with exclusive powers to the Schemes. All trustee powers and rights are now held by Dalriada.

The Pensions Regulator is a statutory body which is responsible for the regulation of work-based pension schemes in the UK. Its aims include protecting the benefits of scheme members together with promoting good administration and understanding of occupational pension arrangements.

Why have we been appointed as independent trustee to the Schemes?

The Pensions Regulator has the power to appoint a trustee under section 7 of the Pensions Act 1995 where it is reasonable to do so:

- a) to secure that the trustees as a whole have, or exercise, the necessary knowledge and skill for the proper administration of the Schemes,
- b) to secure that the number of trustees is sufficient for the proper administration of the Schemes,
- c) to secure the proper use or application of the assets of the Schemes, or
- d) otherwise to protect the interests of the generality of the members of the Schemes.

Dalriada is a company that operates solely to provide trusteeship services to UK occupational pension schemes. We currently act as independent trustee to a number of schemes where we have been appointed by the Determination Panel which is a separate committee from the Pensions Regulator (in that it has a separately appointed membership and legal support) following applications by the Pensions Regulator to the Determinations Panel requesting that the powers under section 7 be used. Dalriada have considerable knowledge and experience in all aspects of pension scheme management.

Our 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 the Pensions Regulator with any enquiries in relation to the management of the Schemes.

Following the Order made by the Determination Panel to appoint Dalriada to the Schemes with exclusive powers it is not appropriate for Dalriada to comment in any detail in relation to the Determination Panel's decision to appoint an independent trustee since this decision is subject to a compulsory review by the Determinations Panel.

However, there are concerns that the Schemes have been used as vehicles for 'pensions liberation fraud'.

Pensions liberation fraud occurs where individuals are encouraged to transfer to schemes in the expectation of getting early access to their pension fund (before the minimum retirement age of 55), either by way of a loan or some other form of cash inducement.

Such payments are in breach of the Regulations that govern occupational pension schemes and can expose members to potentially significant tax charges.

The Pensions Regulator has recently launched a campaign warning of the dangers of pensions liberation fraud www.thepensionsregulator.gov.uk/pension-liberation-fraud.aspx

What action have we taken so far?

We have assumed exclusive control of the existing trustee bank accounts. In addition, we understand that there may be other assets of the Schemes which are held elsewhere and we are currently making investigations in order to gain a full understanding of all assets of the Schemes, including where and how they are held.

We have requested the previous administrators of the Schemes to provide us with all documentation, membership and financial records associated with the Schemes.

Dalriada is undertaking a detailed analysis of all the information it has obtained and will update members further once we are in a position to do so.

Court action

Dalriada reviewed the documentation governing the Schemes on appointment. Having done so, it was considered possible (but by no means certain) that the Schemes do not meet the definition of "occupational pension schemes", as set out in the Pension Schemes Act 1993.

This is significant because the Pensions Regulator can only appoint trustees to schemes that meet that definition. If it proves to be the case that the Schemes are not occupational pension schemes in this context, then it could be argued that Dalriada's appointment may be invalid.

Dalriada has made an application to Court for it to determine whether or not the Schemes are occupational schemes. A hearing has been listed for the first available date the Court has from 15th

July. We are unlikely to know the precise date of the hearing until the day before so might not have an opportunity to inform members of the timing in advance of the hearing. We will however, update members as soon as we possibly can.

Whilst the hearing date is relatively soon, it still left a number of weeks where Dalriada had much work to do and had responsibility for managing the Schemes and looking after members' interests generally but where its position as trustee was potentially in question. This was an unacceptable position and, as such, Dalriada sought to be appointed as trustee by the Court under the Court's own powers. This application was heard on 7th June 2013 and an order was made by the Court granting the application and providing Dalriada with the same powers as trustee as were granted to it by the Pensions Regulator.

This means that, even if there are potential issues with Dalriada's appointment by the Pensions Regulator, the Court has confirmed Dalriada's position as trustee and Dalriada is able to carry out its duties as trustee until such time as it is established whether or not the Schemes are occupational pension schemes.

In any application where clarification of an issue is sought (as is the case here), it is necessary for **both** sides of the argument to be put before the Court. To that end, the Pensions Regulator is going to argue that the Schemes are not occupational pension schemes and Dalriada will argue that they are.

To be clear, this does not mean Dalriada is 'against' or hostile to the Pensions Regulator in Court, or vice versa. Dalriada remains neutral in its position, apart from needing to be comfortable that it is able to carry out its role as trustee for the period of time it is acting in that role. The Court appointment Order referred to above provides that comfort.

However, if Dalriada did not argue the opposite side of the argument to the Pensions Regulator, separate representation would be required which would incur unnecessary cost. Equally, if the Pensions Regulator was not taking the role of arguing that the schemes are not occupational pension schemes, then again separate representation would be required, which would have to be paid for out of the schemes' funds. This way, at least one side's costs are not borne by the schemes.

After the hearing, we will update members of the outcome and what it means to members and the ongoing management of the Schemes.

What does this mean for you?

Until further notice:

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

The Schemes' bank accounts have been frozen so any automated 'bank transfer' payments will be rejected. Any cheques that we receive in respect of transfer payments will be returned to the administrators of the transferring schemes.

These steps are necessary to ensure that Dalriada is able to obtain all relevant information on the assets and liabilities of the Schemes, and clarify the basis on which the Schemes should be administered and managed, before any further financial transactions take place.

If you are in the process of transferring to one of the Schemes we recommend that you contact your existing pension administrator or provider and inform them that transfers into the Schemes should not be made, and instruct them to take no further action in relation to your proposed transfer at this stage.

If you are expecting to receive a payment, this will **not** come from the Schemes and Dalriada will not be making any payments. You should be aware, also, that if you do receive a payment from any other source, linked to your pension transfer, you may be subject to material tax penalties if pensions liberation fraud is established.

What happens next?

We are presently unable to provide further information in relation to any possible implications for Scheme members. Whilst Dalriada now has control of the Schemes to the extent that it is trustee with exclusive powers, it cannot comment on the security of members' benefits until it has identified the value, and secured control, of the Schemes' investments and established definitively whether pensions liberation fraud has occurred.

We will endeavour to provide you with a further update at the earliest opportunity.

Please be assured that we are devoting our full attention to this matter and will work closely and co-operatively with all relevant parties on your behalf and in the best interests of all members.

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. It will help us to resolve any query if you are able to 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:

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