

<p>The Pensions Regulator</p>	<p><b>Compulsory Review</b> <b>FINAL NOTICE</b> <b>under Section 99(4) of the</b> <b>Pensions Act 2004 (“the Act”)</b></p> <p><b>The George &amp; Harding Group</b> <b>Pension Scheme</b> <b>(“the Scheme”)</b></p>	<p>The Pensions Regulator case ref:</p> <p>C3341371</p>
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1. **TAKE NOTICE** that the Pensions Regulator (“the Regulator”) of Napier House, Trafalgar Place, Brighton BN1 4DW has reviewed the orders made subsequent to a Special Procedure hearing on 22 November 2011.

2. **Determination**

A paper hearing of a Compulsory Review (pursuant to Section 99 of the Act) took place on 28 December 2011 of the determination made under the Special Procedure by the Determinations Panel (“the Panel”) on 22 November 2011 when the Panel determined that orders be issued in the following terms:

**“A. Appointment of trustee under Section 7**

1. Dalriada Trustees Limited of Chamber of Commerce House, 22 Great Victoria Street, Belfast BT2 7BA is hereby appointed as trustee of the George & Harding Group Pension Scheme (the “Scheme”) with effect on and from 22 November 2011.
2. This order is made because the Pensions Regulator is satisfied that it is reasonable to do so, pursuant to the relevant provisions of the Pensions Act 1995 as set out below, in order:
  - i. to secure that the trustees as a whole have, or exercise, the necessary knowledge and skill for the proper administration of the Scheme pursuant to Section 7(3)(a);
  - ii. to secure the proper use or application of the assets of the Scheme pursuant to Section 7(3)(c);
  - iii. otherwise to protect the interests of the generality of the members of the Scheme pursuant to Section 7(3)(d).
3. Dalriada Trustees Limited’s fees and expenses shall be paid out of the resources of the Scheme pursuant to Section 8(1)(b) of the Pensions Act 1995.
4. This appointment:

- i. will take immediate effect on the date of this order;
- ii. may be terminated, or the appointed trustee replaced, at the expiration of 28 days notice from the Pensions Regulator to the appointed trustee, pursuant to Section 7(5)(c) of the Pensions Act 1995.

## **B. Vesting Order under Section 9**

1. The Pensions Regulator hereby orders the vesting in, and the assignation and transfer to, Dalriada Trustees Limited of Chamber of Commerce House, 22 Great Victoria Street, Belfast BT2 7BA as trustee of the George & Harding Group Pension Scheme, appointed pursuant to Section 7 of The Pensions Act 1995 by The Pensions Regulator, of all property and assets of the above scheme, heritable, moveable, real and personal, of every description and wherever situated.
2. This Order is made by The Pensions Regulator pursuant to Section 9 of The Pensions Act 1995, as amended.
3. This Order will take immediate effect as at the date of this Order.”

### **3. Directly affected parties**

The Regulator considers the following parties to be directly affected by this determination:

- (a) Mr Colin Harding – trustee
- (b) Mr Barry Milburn – trustee
- (c) Dalriada Trustees Limited (“Dalriada”) – the independent trustee

### **4. Decision on Compulsory Review**

Having considered the written representations of the directly affected parties and the Regulator the Determinations Panel has confirmed the orders.

### **5. Reasons for Decision**

The reasons of the Determinations Panel are as detailed below:

1. Having considered the representations submitted by Dalriada since their appointment, the Panel remains of the view that Dalriada’s appointment is necessary given concerns that:
  - a. full audited accounts have not been completed in accordance with Regulations;
  - b. with the resignation of Mr Colin Read, there was a need for an independent trustee to be appointed to the Scheme in order that conflicts can be efficiently managed;

- c. the original trustees displayed a lack of competence as trustees in the purchase of Sunburst House;
  - d. the original trustees failed to recognise and manage the strong conflicts of interest involved in the purchase of Sunburst House;
  - e. the Scheme's present financial and regulatory plight increases the need for expertise and experience amongst its trustees.
2. While the Panel confirms its concerns about the above issues and upholds its decision to appoint Dalriada to the Scheme, the Panel's initial concerns about the integrity of the original trustees, referred to in Section 8 ("Special Procedure") of the Determination Notice have been assuaged. The Panel notes that the representations and additional facts made available by Dalriada do not suggest the original trustees acted with a lack of integrity.
  3. Dalriada have noted the Panel's request for costs to the Scheme to be controlled and the Panel requests that Dalriada continue to be mindful of this.

## 6. Referral to the Tax and Chancery Chamber of the Upper Tribunal

You have the right to refer the matter to which this Final Notice relates to the Tax and Chancery Chamber of the Upper Tribunal ("the Tribunal"). Under Section 103 of the Act you have 28 days from the date this Final Notice is sent to you to refer the matter to the Tribunal or such other period as specified in the Tribunal rules or as the Tribunal may allow. A reference to the Tribunal is made by way of a written notice signed by you and filed with a copy of this Final Notice. The Tribunal's address is: 45 Bedford Square, London WC1B 3DN (tel 020 7612 9700). The detailed procedures for making a reference to the Tribunal are contained in Section 103 of the Act and the Tribunal Rules.

You should note that the Tribunal rules provide that at the same time as filing a reference notice with the Tribunal, you must send a copy of the reference notice to the Pensions Regulator. Any copy reference notice should be sent to Determinations Panel Support at The Pensions Regulator, Napier House, Trafalgar Place, Brighton BN1 4DW.

**Signed:** 

**Chairman:** Alasdair Smith

**Dated:** 30 December 2011