The Determinations Panel ("the Panel") of the Pensions Regulator ("the Regulator") has reviewed its determination made following a Special Procedure hearing on 8 May 2013 when an independent trustee, Dalriada Trustees Ltd, was appointed with a vesting order.

Directly affected parties

The following parties are directly affected by this determination:

Nidd Vale Trustees Ltd
Trainor Management Services Ltd ("Trainor")

together the “trustees”

Talton Management Ltd
Fairdon Services Ltd
Strator Services Ltd
Rotinar Ltd
Ironstream Ltd
Chappell Crest Ltd
Herman and Peters Ltd
Grey Peak Ltd

together the “sponsoring employers”

Conder Administration Ltd
the “scheme administrator”

Dalriada Trustees Ltd

the “new trustee”

Background

3. This is the compulsory review of the decision taken by the Panel on 8 May 2013 to appoint an independent trustee, Dalriada Trustees Ltd (“Dalriada”) to the Schemes, with a vesting order.

4. The decision taken at the special procedure hearing followed concerns being raised by the Regulator regarding the Schemes. XXXX XXX XX XXX XXXXXXXX XX XX XXXXX XXXXX XXXXXXXX XXXXX XX XXXXX XXXXX XXXXX XX XXXXX. XXXXXXXX XXX XX XXX XXX XXX XX XXXX XX XXXX XXXXX XXXXX XXXXX XXXXX XXXXX XX XXXX XX XXXX XX XXXXXX XXXXX XX XXXX XX XXXX XX XXXX.

5. Prior to the special procedure hearing the Regulator was concerned that the Schemes displayed many indicators that they were being used as a vehicle for pension liberation fraud and for the purposes of the special procedure hearing relied, in particular, on the following:

   i. XXXX XXXXX XX XXXXXXXX XX XXX XXXXXX XXXXX XXXXX XXXXXX XXXXX XX XXXXX XX XXXXX XX XXXX XX XXXXXXXXX XXXXX XXXXX XX XXXXX XXXXX XXXXX XX XXXX XX XXXX XX XXXX XX XXXX.

   ii. the structure of the Schemes, along with the timing of their establishment, was a cause of significant concern as to their purpose;

   iii. a number of irregularities and deficiencies had been found in the governing documents of at least one of the Schemes.

6. The Regulator also raised concerns that XXXXXXXXX statements XXXXX XXX XX XXXXX XXXXX in relation to XXXX XXXXX XXXXXXXX XX XXXXXX XXXXX XXXXX XX XXXXX XXXXX XXXXX XXXXX where Conder appeared to be the administrator indicated possible breaches of common law trustee duties.

7. At the special procedure hearing, the Panel determined to appoint Dalriada Trustees Ltd to the Schemes in light of:-

   i. XXXX XXXXX XX XXX XX X XXXXXXXX XXXXX XXXXX XXXXX XXXXX XX XXXXX XX XXXXX XXXXX;

   ii. concerns over whether the assets of the Schemes were being invested in accordance with the investment duties of pension fund trustees;

   iii. evidence that members were being charged excessive fees;

   iv. irregularities in the documentation for one of the schemes and

   v. concern over the structure and nature of the Schemes which required further investigation to ensure that they were being operated in the best interests of members.
Compulsory Review

8. For the purposes of the compulsory review the Panel considered representations received from XXXX XXXXXX on behalf of Dalriada Trustees Ltd and from the Regulator’s case team. No representations were received from any other Directly Affected Party.

9. In its representations for the compulsory review hearing, the Regulator identified three key areas of concern regarding the Schemes, namely:-

i. that the Schemes are involved in pension liberation;
ii. that the assets of the Schemes have been invested in risky investments;
iii. that the directors / shareholders of Nidd Vale Trustees (Nigel and Edwin Romilly) do not have sufficient skill, understanding or interest in the management of the Schemes to protect the Nidd Vale Schemes’ assets or act in the members’ best interest.

Compulsory Review Determination

10. Having completed the compulsory review, the Panel determined to confirm the determination referred to in paragraph 1 above, and to confirm the Order made on 8 May 2013 under sections 7 - 9 of the Pensions Act 1995.

Reasons for Decision

11. The Panel gave careful consideration to the issues raised and had regard to the objectives of the Regulator as set out in Section 5 of the Act and to the matters listed in Section 100. It determined to uphold its previous determination for the reasons set out below.

12. The Panel noted that the position was not the same for all of the Schemes. In the Panel's view the Schemes could be separated into two distinct groups, i.e. “Trainor schemes” (Talton Management Ltd Pension Trust, Fairdon Services Ltd Pensions Trust, Strator Services Ltd Pension Trust, Strator Services Ltd Pension and Conder Administration Ltd Pension Scheme) and the “the Nidd Vale schemes” (Iron Stream Retirement Benefit Scheme, Chappell Crest Ltd, Herman and Peters Retirement Benefit Scheme and the Grey Peak Retirement Benefits Scheme).

The Trainor schemes

13. Whilst there had been no significant new evidence since the special procedure hearing, the Panel considered it appropriate to uphold the decision XXXX XXX XX XXXXXXXX XXXXX XXXXXXXXXX XXX XX XXXXXXXX XXX XX XXXXX XXX XXX XXXX XXXXX XXXX XXX XXX XXXX XXX XXX XXXX XXXXX XXX XXX XXXX XXXXX XXXX XXX XXXX XXXX XXXX XXXX XXXX XXX XX XXXXX XXX XXX XXXX XXXXX XXXX XXX XXXX XXXX XXXX XXXX XXXX XXX XXX XXXX XXXXX XXXXXX XXXXXX XXX XXX XXXX XXXXXX XXXXXXXXXXX. The Panel
noted that XXXX XXXXXX XXXXXX XXXX XX XXXX XXXXX XXXXX there was limited, if any, further evidence of pension liberation since the special procedure hearing although there was evidence that members of the Schemes were being charged excessive fees.

14. The Panel noted the Regulator’s comments that the Trainor schemes appear to be “feeder schemes to another scheme, XXX, that arguably brings about pension liberation” and that the Regulator is engaged in High Court litigation in relation to the XXX scheme. Given the limited evidence provided in relation to the XXX scheme, this supported, rather than was critical to, the Panel’s decision.

The Nidd Vale schemes

15. As regards the Nidd Vale schemes, the Panel determined to uphold its previous decision for the following reasons:-

i. the evidence suggests that a significant proportion of the assets of schemes had been invested in a single high risk investment, XXXXXX offshore investment bond, with excessive fees being charged and in breach of one or both of regulations 4 and / or 7(2) of the Occupational Pension Schemes (Investment) Regulations 2005;
ii. a number of whistleblowing reports submitted by the Regulator suggest that the Nidd Vale schemes might be involved in pension liberation. In particular, the evidence suggested release of pension funds via loans or cash lump sums;
iii. there is evidence to suggest that Nigel and Edwin Romilly lack the knowledge and understanding required of trustees. In particular, that no competent trustee should, or would, have signed off trust deeds in the form that they did, nor breached investment regulations in the manner that they did. The Panel noted Mr Nigel Romilly’s admission of his “inexperience” as a trustee;
iv. XXXXX XXXXXX XXXX XXXX XX XXXX XXXX XXXX XXXX XXXX XX XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX

Appendix 1 to this Final Notice contains important information about the Directly Affected Parties’ rights of appeal against this decision.

Chairman : Alasdair Smith

Date : 5 February 2014
Appendix 1

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
The Pensions Regulator,
Napier House
Trafalgar Place
Brighton
BN1 4DW

Tel: 01273 811852

A copy of the form for making a reference ‘Reference Notice (Financial Services)’ can be found at:

http://www.tribunals.gov.uk/financeandtax/Documents/forms/FTC31.doc