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Whistle-blowing	
<ul> <li>Reporting breaches of the law to the Pensions Regulator (TPR)</li> </ul>	
<ul> <li>Decision whether to report</li> <li>Is there reasonable cause to believe that there has been a breach</li> <li>Is the breach likely to be of material significance to TPR</li> </ul>	
<ul> <li>Not every breach needs to be reported</li> </ul>	
<ul> <li>TPR has issued a code of practice</li> <li>Regulatory Code of practice 01: Reporting breaches of the law available at <a href="www.thepensionsregulator.gov.uk">www.thepensionsregulator.gov.uk</a></li> </ul>	
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Whistle-blowing	ī
Who should whistle-blow?	
Wile shedid Willele Slow.	
<ul> <li>PA95 introduced whistle-blowing duties for scheme actuaries and auditors</li> </ul>	
<ul> <li>PA04 extended the statutory whistle-blowing duties to most parties involved in running a scheme</li> </ul>	-
<ul> <li>Sponsoring and participating employers</li> <li>Trustees</li> </ul>	
<ul> <li>Administrators</li> <li>Professional advisers</li> </ul>	
Other advisers to a scheme	
PA04 also imposes additional reporting requirements on employers and trustees	
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Whistle-blowing	
When to whistle-blow?	-
The requirement to report breaches of the law arises when a duty which is:	
<ul> <li>Imposed by or by virtue of an enactment or rule of law, and</li> <li>Relevant to the administration of a scheme</li> </ul>	
has not been complied with	
Code of practice sets out broad principles	
TPR interprets 'Relevant to the administration of a scheme' as	
<ul> <li>Anything which could potentially affect members' benefits or the ability of members and others to access information to which they are entitled</li> </ul>	
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Whistle-blowing	
Judgement: 'Reasonable cause to believe'	
<ul> <li>More than merely having a suspicion that cannot be substantiated</li> </ul>	
<ul> <li>Not necessary to gather all the evidence which TPR would require before taking legal action</li> </ul>	
Usually check the facts or events around a suspected breach with the	
trustees • EXCEPT in cases of theft, fraud or other serious offences	
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Whistle-blowing	
Judgement: 'Material significance'	-
<ul> <li>What makes the breach of material significance depends on</li> </ul>	
<ul> <li>Cause</li> </ul>	
Effect	
<ul> <li>Reaction</li> </ul>	
<ul> <li>Wider implications</li> </ul>	
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Whistle-blowing	]
Cause of the breach	
<ul> <li>Likely to be of material significance where the breach caused by</li> </ul>	
<ul> <li>Dishonesty</li> </ul>	
Poor governance     In advance and the securities in the finite to desire intention.	
<ul> <li>Inadequate controls resulting in deficient administration</li> <li>Slow or inappropriate decision-making practices</li> </ul>	
Incomplete or inaccurate advice	
Acting (or failing to act) in deliberate contravention of the law	
ricing (or raining to day) in democrate contravention or the late	
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	<b>a</b>
Whistle-blowing	
Effect of the breach	
<ul> <li>TPR objectives are to</li> </ul>	
Protect members' benefits	
Reduce risk of calls on the PPF	
<ul> <li>Promote good administration</li> </ul>	
<ul> <li>Breaches that adversely affect the following are likely to be material</li> </ul>	
<ul> <li>The right money paid to the scheme at the right time</li> </ul>	
<ul> <li>Assets appropriately safeguarded</li> </ul>	
<ul> <li>Payments from the scheme are legitimate and timely</li> </ul>	
<ul> <li>Money purchase contributions are correctly allocated and invested</li> </ul>	
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Reaction to the breach	
TPR does not normally regard a breach as materially significant where	
<ul> <li>Trustees take prompt and effective action to investigate and correct the breach</li> <li>If appropriate, members who are affected are notified</li> </ul>	
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Whistle-blowing	
Reporting arrangements	
<ul> <li>Reporters should have effective arrangements in place to meet their duty to whistle-blow</li> </ul>	
Reliance cannot be placed on waiting for others to report	
Breaches should be reported as soon as reasonably practicable	
Failure to report when required to do so is a civil offence	
No requirement or expectation to search for breaches	
<ul> <li>Reports are to be submitted in writing, where possible using the standard format available from TPR's website</li> </ul>	
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Whistle-blowing	
Collective and duplicate reporting	
<ul> <li>TPR accepts that trustees and their advisers may wish to make a collective report</li> </ul>	
But procedures must be in place to report as soon as reasonably practicable	
<ul> <li>Where the trustee is not a corporate body, the duty to report falls on individual trustees</li> </ul>	
The requirement to report is not automatically discharged by another party	
reporting the breach  • However a breach is not material for the purpose of making further reports once TPR is aware of the breach	
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Whistle-blowing TPR's response to whistle-blowing TPR has discretion on whether and what action to take Measures available include · Assisting or instructing trustees (or others) to achieve compliance Appointing trustees to run the scheme Removing trustees from office Freezing the scheme
 Special measures in connection with the scheme's funding arrangements Whistle-blowing Traffic light approach to whistle-blowing Red reports: breaches TPR regards as materially significant
 Persistent or significant departures from the scheme's SIP
 Frequent cases of incorrect benefits being quoted or paid
 Consistent late or non receipt of transfer value quotes and benefit statements Amber reports: no immediate threat to members' benefits, but concern An otherwise closed scheme admitting a new member with significant past service benefits, but inadequate funding Green reports: matters about which TPR would not expect to receive a Isolated failure to pay a member's benefits correctly, or to provide a member with timely or correct information Notifiable events Notifiable events Trustees and employers must report notifiable events to the TPR This applies only to schemes that are eligible to enter the PPF The events are designed to give TPR early warning of a possible call on the PPF, and fall into two groups Scheme-related – to be notified by the trustees Employer-related – to be notified by the employers TPR has issued a code of practice Regulatory Code of practice 02: Notifiable events

Notifiable events Scheme-related events In all circumstances A decision by the trustees to grant benefits on more favourable terms than set out in the TD&R without seeking the scheme actuary's advice and obtaining additional funding Where the scheme is less than 100% funded on the PPF levy basis, or there has been a material breach of payments under the SoC

• A decision by the trustees to compromise an employer debt (in excess of 0.5% of the fund) Making a transfer payment in excess of the lesser of £1.5m and 5% of the fund Granting benefits, the cost of which is in excess of the lesser of £1.5m and 5% of the fund Two or more changes in the past 12 months in the post of scheme actuary or auditor . Notifiable events Employer-related events In all circumstances Any employer decision to compromise an employer debt An employer ceasing to have a place of business in the UK
 An employer reading wrongfully, or where it is known that there is no reasonable prospect of avoiding becoming insolvent
 Conviction of a senior officer for an offence involving dishonesty Where the scheme is less than 100% funded on the PPF levy basis, or there has been a material breach of payments under the SoC Controlling company relinquishes control of the employer
 Two or more changes in the past 12 months in the post of CEO of FD Any deterioration below investment-grade in the employer's credit rating
 Any breach in the employer's banking covenant Limitations of reliance This presentation was prepared for the Professions' Actuaries and the Law seminar on 13 September 2005 as an introduction to illustrate the key whistle-blowing and reporting requirements arising from the new pensions framework introduced by the Pensions Act 2004. It was not prepared for any other use or for use by any other party and may well not address their needs, concerns, or objectives. The content of this presentation was based on our understanding of the Act, Regulations, Codes of Practice, Guidance and other relevant information available as at the time of preparation, and may not reflect the final position at any future date.

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