

PENSIONS ALERT BULLETIN

02-JUNE 2003

Exposure Draft on Opra Note 1 – reporting to Opra

In October 2002, Opra announced plans to review its guidance for statutory whistleblowers, i.e. the scheme auditors and actuaries appointed by trustees. Opra has now published an Exposure draft of Opra Note 1 (reporting to Opra) setting out a “traffic light” system for reporting breaches to it under section 48(1) of the Pensions Act 1995. In summary:

- “Red” breaches are materially significant to Opra and include “matters indicating potential dishonesty or misuse of assets or contributions” or breaches which attract criminal liability. These breaches must be reported to Opra immediately in writing.
- “Green” breaches do not need to be reported to Opra as they “have no significant detrimental impact on a member’s benefits”. Examples include isolated breaches which are unintended and trivial and which are corrected promptly.
- “Amber” breaches “are likely to involve matters that do not pose an immediate threat to members’ benefits, but raise concerns over the running of the scheme”. This could include a collection of “Green” breaches in respect of the same scheme or a non-Pensions Act breach, for example, a breach of trust law. The scheme auditor or scheme actuary will need to consider “amber” breaches very carefully to assess whether or not to make a report to Opra (and should report if they are likely to be of material significance).

By introducing the new system, Opra hopes that the number of reports on relatively minor breaches will be cut which, in turn, will enable it to focus on more serious breaches. The consultation period finishes on 4 June 2003.

If you would like to discuss any of the issues raised or would like a more detailed list of the breaches given in respect of each “traffic light”, please consult the usual Partner with whom you deal.

Nothing stated in this document should be treated as an authoritative statement of the law on any particular aspect or in any specific case. Action should not be taken on the basis of this document alone. For specific advice on any particular aspect you should consult the usual Partner with whom you deal.