

The logo for Bevans solicitors, featuring the name in white text on a dark purple rectangular background.

Financial Services

A photograph of a hand holding a plum, with the text 'a plum choice' overlaid in white on the right side of the image.

Equitable Life

Set up as the first Mutual Society in the world in 1762, this life insurer closed for business in 2000, but not until it had run for eight or so years without the necessary financial capacity to pay all its policy holders as their claims fell due.

The problem arose because for some years Equitable Life had been issuing pension policies with guaranteed annuity returns (GARs). These GARs provided for payments well above those that other companies had to pay out. Annuity rates were falling but not for this company. By 1992/3 it seems safe to say that Equitable Life was under severe financial strain.

Financial services regulation introduced by the government in 1988 created a regulator. The first regulator was called Lautro, followed by the PIA. Now it is the FSA. This is a statutory body charged with ensuring participators in the life pensions and investment industry comply with certain standards including those relating to financial viability.

Every year Equitable Life filed regulatory returns. These had missing information hiding the true financial position. But even that which was revealed should have led to earlier intervention. What else is the regulator there for?

Further, during this period the regulator permitted one person to be both Chief Executive and Company Actuary making it much less likely that he would blow the whistle.

Had sections of the Equitable Life policy holders been told the true position they may well have removed funds earlier or never invested in the first place. Some have lost most of their life savings.

The Parliamentary Ombudsman, Anne Abrahams, attacks both the DTI and the Government in her report issued on 17 July 2008. The report concludes that there was a failure to take adequate steps to protect policyholders; the company was permitted to stay open for new business when it should have been clear the game was up.

Whether people should and will get compensated is being debated. The Government will face pressure but even neutral commentators are saying why should one section only of the pensioner community get compensation at the cost of the tax payer? A figure of £4 billion has been calculated to be the amount lost due to maladministration. It may be paid –if at all –over a longish period but it is a massive amount.

On the other hand, this is a case where public officials and bodies they work are asserted to have committed misfeasance in public office. This is a complex legal wrong (tort) where, under certain circumstances, public officials and bodies can be made liable for losses occasioned by misfeasance.

If a wrong has caused loss it ought to be compensated as how otherwise will government and regulators start to take their role seriously and give the public confidence?

Bevans act for and have advised Equitable Life policy holders and claims can succeed. Financial services litigation is a specialist area in this practice.

If you have views get in touch with Alex Bevan abevan@bevans.co.uk or Patrick Selley pselley@bevans.co.uk.

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