

complaints about Equitable Life

Between 2000 and 2005 the Financial Ombudsman Service received a significant number of complaints from people with policies with Equitable Life – following legal action about the insurance company’s so-called “guaranteed annuity rates” (GARs) that resulted in a House of Lords’ ruling in July 2000.

This factsheet gives a brief overview of our work on those complaints – and provides links to more detailed information relating to these complaints.

what type of complaints about Equitable Life and GARs (“guaranteed annuity rates”) has the Financial Ombudsman Service looked at?

People who had “with-profits” policies with Equitable Life that were still in force on 8 February 2002 – when Equitable’s official Scheme of Arrangement (or “compromise agreement”) with its policyholders came into effect – were automatically covered by the terms of that agreement.

The agreement involved “uplifts” to the values of policies. In return, policyholders were not able to complain to the Financial Ombudsman Service (or the courts) about what they believed they had been told – when they took out their policies – about the possible affect on their policies of a different kind of policy that had guaranteed annuity rates (GARs). The policies that had guaranteed annuity rates were called GAR-policies – and complaints about the affect of these policies on other policyholders were called GAR-related complaints.

With-profits policies with Equitable Life that were *no longer* “live” on 8 February 2002 were *not* covered by Equitable Life’s compromise agreement. So these policyholders *were* able to complain to the Financial Ombudsman Service about what they had (or hadn’t) been told about the possible affect of the GAR-policies on their own policies. A significant proportion of GAR-related

complaints referred to us involved policies taken out from 20 March 1998 onwards. People with this type of complaint frequently referred to themselves as Equitable Life “late joiners”.

was the ombudsman service able to look at other complaints as well?

In addition to GAR-related complaints, we received complaints about a variety of other matters – including complaints about advice to take out Equitable Life policies which people believed were unsuitable given their personal circumstances and needs.

And we received complaints from people who said they had lost out financially as a result of delays and clerical errors on their policies. In some cases, complaints involved both GAR-related matters and other issues.

We also looked at the sale of international policies by Equitable Life through its Guernsey and Dubai branches.

how did the ombudsman service organise the significant number of complaints it received about Equitable Life?

We decide each case on its own individual circumstances. But if we receive a substantial volume of complaints that appear to involve essentially similar issues, we may choose a few apparently typical cases as lead cases. Focusing initially on these lead cases helps us establish the key general principles – and saves duplicated effort for all concerned.

We considered lead cases for various categories of Equitable Life complaints – leading to a series of adjudications and ombudsman decisions.

what decisions has the ombudsman service made on Equitable complaints?

In May 2003 we issued adjudications* on a number of lead cases covering GAR-related issues – each case involving advice given by Equitable Life between September 1998 and 20 July 2000 (the date of the House of Lords’ ruling on guaranteed annuity rates).

The consumers in these lead cases had removed the policies in question from Equitable Life’s with-profits fund *before* 8 February 2002 – so the policies were not bound by the terms of Equitable Life’s compromise scheme that came into effect on that date.

Equitable Life asked to refer our adjudications on these lead cases to the ombudsman for a formal review and final decision. In considering these cases, the ombudsman sought a legal opinion from Jonathan Hirst QC. We sent a copy of this legal opinion (dated July 2003) – together with the ombudsman’s initial view on redress – to Equitable Life and to the lead case consumers for their comments.

We received a substantial amount of information in response – including a legal opinion, dated September 2003, that Equitable Life had sought from Christopher Carr QC and Gabriel Moss QC*, commenting on Jonathan Hirst’s opinion.

We subsequently sought further advice from Jonathan Hirst QC*.

In March 2005 the chief ombudsman issued his final decision on one of these lead cases – upholding the complaint of the consumer in question (Ms “E”). The chief ombudsman’s conclusions were set out in detail in the 79-page report* sent to the parties involved.

We have also issued:

- An adjudicator’s view* on a lead case relating to advice that Equitable Life gave between 20 March 1998 and August 1998. Without admitting liability, Equitable Life agreed to offer redress as suggested in the view.
- An adjudication* on a lead case relating to advice that Equitable Life gave in 1990.
- An adjudication* on a lead case relating to advice that Equitable Life gave *after* the House of Lords’ ruling in July 2000.
- An adjudication* on a lead case – Mr H’s case – involving advice given by Equitable Life *before* 20 March 1998.
- A final ombudsman’s decision* on the lead case of Mr and Mrs K – following on from the adjudication on Mr H’s case.

Our findings on the issues raised in Mr H’s and Mr and Mrs K’s lead cases – which we did not uphold – applied equally to other similar GAR-related complaints about advice to take out a policy with Equitable Life before 20 March 1998.

how was the ombudsman’s handling of Equitable Life complaints affected by enquiries by the Parliamentary Ombudsman, Lord Penrose and the European Parliamentary Committee?

We did not delay our consideration of Equitable Life complaints during the enquiries by these bodies – which were completely separate from the Financial Ombudsman Service.

Having considered representations from consumers and Equitable Life, the chief ombudsman concluded in March 2005* that he should exercise his discretion to decline to investigate complaints relating to information in Lord Penrose's report.

In February 2007 Lord Neill presented a report to the European Parliamentary Committee, which he had been employed to write by an action group representing dissatisfied investors in Equitable Life. The Financial Ombudsman Service had not seen this report – or been given the opportunity to comment

on it – before it was presented to the Committee. We subsequently sent the Committee our response to the report*.

* these documents are all available to download in PDF-format at <http://www.financial-ombudsman.org.uk/publications/factsheets/equitable.htm>

phone 0300 123 9 123
8am to 8pm, Monday to Friday
9am to 1pm, Saturday
www.financial-ombudsman.org.uk

This factsheet for consumers is only a general guide. It is not legal advice. The rules we have to follow can be complex. We look at each case on its own individual facts and merits. We will always give you the chance to query anything you don't understand or agree with.

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