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The Switch to Private Pension Plans for Teachers, 1982-2002: a case of freedom of choice or financial scandal?

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ABSTRACT In the early 1980s the Conservative Administration introduced legislation to promote private personal pension plans for public sector workers. An army of commission-driven sales staff from the financial services industry sought to persuade teachers and others to abandon their inflation-proof pension schemes for those offered by private companies. It took some time before it was realised that this was a retrograde step for most employees taking this advice. Fortunately, trade unions were well represented within the public sector and they interceded on behalf of their members and exposed the fraudulent behaviour of established financial companies. The Financial Services Authority not only fined the financial services companies thousands of pounds but forced them to restore employees to the situation they would have been in if they had ignored the advice given earlier. This financial scandal took nearly 20 years to resolve satisfactorily. Teachers and other employees learned a hard lesson: most private companies put the profit motive before service to customers, they are not necessarily more efficient than the public sector and financial consultants are, in effect, sales persons whose advice is usually motivated by commission and bonus payments. Painful though the experience of many teachers had been, by the Autumn of 2008 the whole country would be shaken by the disastrous effects of a weakly regulated free market financial system.

Norman Fowler's Promotion of Private Pension Plans

Government attempts to influence the superannuation schemes of teachers and other public sector worker indirectly came about by moves to apply market forces to more industries and services within the United Kingdom, all part of an assumption promoted by the Thatcher Government that provision within the

public sector was inferior to that provided by the private sector. Within the Department for Health and Social Security (now the Department for Work and Pensions) Norman Fowler, the Government Minister, was keen to promote the idea of private personal pension plans for public sector workers. Soon after the 1983 General Election victory of the Conservatives, Fowler set up a retirement study group, which among others took evidence from the Centre for Policy Studies and the National Association of Pension funds (NAPF). The former, not surprisingly, recommended an immediate switch to private pensions; the latter expressed concern at such plans. Derek Bandey, Chair of the NAPF Parliamentary Committee 'kept warning the Government that there is more freedom and security in a fund managed by elected trustees than in a private pension managed by a bank or insurance company. His warnings were ignored' (Foot, 1994). In an article entitled 'Swindlers List', published in *Private Eye* in February 1994, Paul Foot provided considerable detail as to those involved in promoting private pensions, both within the Government and within the financial services. Norman Fowler's Committee comprised Barney Heyhoe, Minister of State; Professor Alan Peacock, Vice Chancellor of the private University of Buckingham; Mark Weinberg, Chair of Allied Dunbar Assurance; and Marshall Field, General Manger of Phoenix Assurance. Credit, if that's the right word, must also go to Ministers of State Anthony Newton and John Major, who, according to Paul Foot in an article published in *The Guardian* in November 1997, 'as a junior social security minister in the mid-1980s, helped drum through the House of Commons a plan dreamed up by free enterprise fanatics in the Centre for Policy Studies' (Foot, 1997). The belief seemed to be that this would 'free up' the world of occupational pensions, thereby giving all people the opportunity to choose whether they should stay with the pension scheme offered by their employer or purchase a personal pension plan from a private insurance company on the recommendation of one of their sales staff or a financial adviser.

Provision for this policy was made through various pieces of legislation: the Social Security Act of 1986 enabling personal pensions to contract out of SERPS; the Financial Services Act of the same year providing for the sale and marketing of personal pensions; and the Income and Corporation Taxes Act of 1988 providing for tax relief for personal pensions subject to certain requirements. Norman Fowler, Minister for Health and Social Security, was confident that the policy would be a success. 'Insurance companies and the new providers like building societies and unit trusts are showing an encouraging and increasing interest in personal pensions' (Hansard, Col. 725, 3 June 1986). Mr McCrindle, Conservative, asked whether the Minister would join him 'in suggesting to the established pension funds that instead of complaining about the two per cent incentive that is to be given to the new personal pension arrangements, they should believe that , whichever scheme may be effected, there is every reason to expect that competition will bring a better return'. This was a statement which prompted the question as to why an incentive was needed if the proposed scheme was such a good one? Fowler claimed the

legislation would give people 'the right to choose'. He went on: 'All the experience of other countries, notably the United States, is that competition between different providers takes charges down, and I think that this is what will happen in this country.'

Earlier the Minister had assured Parliament that 'people with personal pension plans will be fully covered by the new investment protection arrangements to be made for all financial services' (Hansard, Col. 24, 16 December 1985). This was a clear expression of confidence that those working on behalf of insurance companies would provide objective advice as to what was in the best interest of the prospective clients they met. The right to choose was introduced in 1988 with a large advertising campaign, including television commercials showing a person breaking the chains binding them to an employer's pension scheme.

When the proposals were announced in Parliament there was opposition to the idea. John Greenway, a Labour MP, asked the Secretary of State for Social Services 'what advice his Department intends to give members of occupational schemes before the 1 April.' Michael Portillo, the Under Secretary within the Department spoke of the new opportunities for employees to take out personal pensions but added it was 'not for the Government to offer personal advice to individual scheme members' (Hansard, Cols. 175-176, 8 March 1988). Not satisfied, Greenway pressed Portillo further. 'Is my hon. Friend aware that there is widespread concern among trustees and pension funds that if members of occupational schemes opt out of them, they may inadvertently lose entitlement to important fringe benefits, such as death-in-service cover and widows' pension? Will he take every opportunity to warn the public of these changes?'

Portillo expressed a naïve confidence in the financial services sector which would prove to be unjustified within a few years. 'The Financial Services Act of 1986 contains conduct of business rules that require suppliers to give best advice to their potential customers. That will include discovering the client's present position and whether the client has an occupational pension. If the client has such a pension, the supplier should advise him or her about what benefits might be lost from the occupational pension and what benefits might be gained.'

Bob Cryer, Labour, was not impressed. With regard to fire fighters in particular, he pointed to the increased costs which local authorities would face in opposing alternative inferior schemes to the present better local authority schemes. He asked the Minister 'to get together with the Home Office and assure that all costs imposed by the Government's rotten schemes are provided for.' Portillo promised to explore this point while claiming that he did not recognise it as problem. 'I believe the reforms provide a much wider range of pension choice, which will offer people opportunities in future without shackling them to a particular employer.' Portillo's expressed belief in the benefits of 'choice' and the integrity of salesmen offering 'best advice 'was soon to be tested in the real world of the finance industry.

Entry of the Private Pension Plan Persuaders

With the Government actively promoting the idea, the financial service providers moved in rapidly to provide personal pension plans. An army of insurance sales staff and financial advisers set out to target public sector workers, in particular teachers, police, fire-fighters, civil servants, coal miners and National Health Service staff, especially nurses. The Fire Brigades Union were active from the start in warning of the dangers in opting out of their employer's pension scheme and their effectiveness can be gauged by the fact that out of approximately 40,000 members , only 30 chose to go for a private pension. One tactic adopted by some companies was to engage those within the services to persuade their colleagues to leave the schemes to which they belonged in the idea that such advice was coming from someone who understood their situation and could be trusted to give fair advice. Teachers would find leaflets in their pigeon holes placed there by staff acting as agents for insurance companies. During the boom years of the personal pension schemes, some insurance companies employed salesmen who were given one day of training before they went out 'on the road', stimulated by generous commissions to win over customers. This was an approach which Will Hutton had warned in December 1993 would lead to widespread difficulties.

> The heart of the problem is the commission-driven nature of the financial services industry , which to be changed requires a wholesale transformation in the way pensions are distributed – and which is on nobody's agenda. Flogging personal pensions or any of the other 250 financial products launched every week may create work for Britain's bloated financial services sector - hunger for commission is always going to obstruct the quality of advice. Only later will society pick up the cost: millions living in destitution in their old age. (Hutton, 1993)

The promotion methods of the pensions financial sector were very effective. Thousands were persuaded to leave central and local government schemes believing the salesmen who told them they would be automatically better off when they retired with a personal pension plan sold by a private insurance company. It took several years before doubts began to arise as to the validity of this advice and as to its impartiality. By 1993, there were signs that all was not well in the personal pensions business. Some of those who had been persuaded to make a change began to entertain doubts as to the wisdom of the action they had taken. Initially, some individuals made enquiries of those who had sold them a personal pension plan only to be either reassured that the product they had purchased was sound or to receive an unsatisfactory reply. It was to prove fortunate that trade unions were well represented in the public sector, and among those who seemed to be badly advised a considerable number were union members. Their unions began to take up the issue on their behalf.

Early Cases of Bad Pension Advice

One of the first cases which arose was that of Mrs Jennifer Brown of Dudley, who in 1993 had been advised to opt out of the Teachers' Superannuation Scheme (TSS) four years earlier and take out a policy with Abbey Life. Upon realising she was getting a poor deal she appealed for help to her union, the Association of Teachers and Lecturers (ATL) who took up her case pointing out that she had been given the wrong advice. The Insurance Company paid up £20,933 into the TSS to restore the situation of Mrs Brown to what it would have been if she had not opted out (Rafferty, 1993). Sarah Poulson who started teaching at a Shropshire infant school in 1989 was persuaded by a representative from Crown Financial Management she could almost double her pension benefits by leaving the TSS and taking out a private personal pension plan. Having accepted his advice, it was not until she moved to a school in Ilkley that her new colleagues suggested that she contact her trade union, the National Union of Teachers (NUT), who took up her case and gained compensation from Crown Financial Management which enabled her to rejoin the TSS and restore her pension to what it should have been (Fawcett, 1994). Another teacher, Sarah Hankins of Northampton learned from Teachers' Assurance, a company promoting personal pension plans, that she had been given 'inappropriate advice' and they agreed to compensate her so that she was also returned to the TSS without any loss of benefits.

Security and Investment Board Investigations

The cases revealed by the SIB investigations led to a flood of complaints from other teachers, many of whom turned to their unions for protection. The teachers' unions took up numerous cases and at times had to threaten legal action against insurance companies who had failed to give their clients 'best advice' as required under the Financial Services Act of 1988. Even as these insurance cases were coming to life there were still insurance sales staff 'operating…in pit villages attempting to persuade miners into surrendering their index linked pensions'. By now the SIB – a city watchdog – was promising an investigation into the way 'rogue salesmen' had been mis-selling pensions during the last few years and promising full compensation to their victims (Hughes et al, 1993). British Coal said it was deeply concerned that members were being persuaded to transfer out of pension schemes. A spokesman said that both the Mineworkers' Pension Scheme and the British Coal Staff Superannuation Fund, which were index linked, 'offer the best terms of any pension scheme in this country'. He added,

> Last year, when Michael Heseltine announced the closure of 31 collieries we were inundated with calls from miners who were being pestered by over aggressive pension salesmen. As soon as the announcement was made, they found notices from pension financial

> advisers and pensions salesmen tucked into their car windscreens urging them to consider moving their pension out of the scheme.

At the time, it was estimated that about 27,000 teachers had been persuaded to take out private personal pensions since 1988.

The SIB decided to take action after research showed that a substantial proportion of the 500,000 pension transfers worth £7 billion may have been mis-sold. A steering group was set up with a requirement to report on the situation by February 1994. The membership was: Andrew Large (Chairman), John Young (Chief Executive), Sir Douglas Wass (former top Treasury civil servant), Sir Nicolas Goodison (President, British Bankers Association), Geoffrey Lister (Chairman, Building Societies Association) and Ron Amy (Chairman, National Association of Pension Funds).

It was becoming clear that the guidelines established by financial regulators such as FIMBRA, IMRO and LAUTRO had been ignored by many companies. Allied Dunbar admitted to having dismissed a member of staff in 1993 for selling 'inappropriate pensions', and as the scale of the scandal began to unfold, other companies were to remove staff, primarily those engaged directly in sales but it seemed that some supervisors and managers must also have seen many of the pension plans and policies and had a good idea what was taking place. The fact was that most of the pension schemes for NHS staff, teachers, miners and most public sector workers were better than those on offer in the form of personal pension plans. Teachers paid 6 per cent of their salary, employers 8.5 per cent whilst the Treasury paid the amount needed for index linking. Administrative costs of the scheme were met by the employers. There was no personal pension scheme which could match this: a fact the insurance companies and competent financial advisers must have known full well.

Grounds for Redress

The SIB identified two main types of bad pension advice: pension opt outs where an employee had been persuaded to leave or not join the TSS or Universities Superannuation Scheme (USS) while still employed as a teacher; or pension transfer where someone having left teaching prior to retirement had been advised to switch the pension benefits they had built up to a personal pension plan. Those fitting into either of these categories 'are prima facie deemed to have received bad pension advice' (Ingledew, 1994). The SIB identified 250,000 priority cases of public sector workers opting out, of whom some had retired, some died whilst others were over the age of 35 when they opted out but were still with the same employer. A deadline of 31 December 1995 was set for these specific cases to be reviewed by the insurance companies and financial advisers responsible. There were a further 100,000 transfer priority cases also needing to be reviewed by the same date. Teachers were advised to contact insurance companies and financial advisers who had sold them personal pension plans, send details of all correspondence to the SIB and

PIA, and further information of the bad advice given to their trade union and MP. The aim was for individuals badly advised to receive compensation in order to be able to rejoin the TSS and USS which they had been duped into leaving against their own best interests. By 1997 the PIA had spent £5 million per annum trying to persuade insurance companies to carry out the review estimated to have affected 1.5 million people at the time. In the two years since the PIA initiated the review 99 per cent of identified mis-selling victims had yet to receive any compensation (Miles, 1997a). Doubts were expressed about the independence of the PIA Chairman Joe Palmer as he was the chief executive of Legal and General who had already paid compensation for mis-selling to customers, but this position might have been particularly apt if seen as a case of poacher turned gamekeeper.

Among the widespread criticisms of the personal pension plans, there was at least one teacher, Ian Hopkins, who taught economics and business studies in Norwich, who suggested teachers were not necessarily badly off with a private plan. A former financial consultant, he claimed there were still advantages to personal pension plans, depending upon the circumstances, and it could be a mistake to switch back. His seemed to be a lone voice against all the contrary advice from a range of financial regulators and trade unions. At the time he was a shareholder in a financial consultancy which was tied to a pension and insurance company.

Estimates of the scale of the problem varied in the early 1990s as trade unions, financial regulators and insurance companies tried to assess the number of people considered to have been mis-sold pensions and now referred to by newspapers as 'victims'. Marian Bird, of the ATL, spoke of some of her members being 'conned' into taking out personal pensions (Holdsworth, 1994). A *Guardian* reporter wrote of hundreds of thousands of people 'duped' into leaving company pension schemes by 'unscrupulous insurance salesmen who had hoodwinked employees' (Miles, 1996). Brian Clegg, Assistant Secretary of the NASUWT said 'insurance reps are still advising teachers to opt out – as late as yesterday afternoon we heard of a case' (Holdsworth, 1994). Teachers' unions believed that the minimum figure for the size of compensation in claims against pension companies would be in the order of £10 million as other stories of mis-selling came to light.

One case which was disputed initially was that of Louise Hamblin and Nicola Hill, both in their twenties. They took up a claim by Prudential representatives who allegedly told staff at Bridgewater Community School in Hampshire that they could retire early by topping up their pension with additional voluntary contributions (AVC). The two teachers told the insurance reps they wished 'to retire at 53' and were duly signed up into an 'in house' AVC scheme run by the Prudential, that took the maximum allowable, 9 per cent of their monthly salaries (Cornell, 1995). Only when one of them happened to mention it to her independent financial adviser was she made to realise that the plan purchased could not guarantee the ability to retire at such an early age because it was only at the discretion of the local education

authority that a teacher could retire before 60 years of age and receive their pension. Furthermore, by overpaying, as they now were, they could end up paying more tax. They complained to the Prudential in September 1994 but it was six months before they received a reply insisting sales staff did not give misleading advice and offering them £50 compensation each and telling them they ought to stay with the AVC scheme. The ATL claimed that companies were dragging their feet in dealing with the claims of their members, giving as an example the case of Susan Edgar, a teacher in Wrexham who had lodged a compensation claim in March 1993 which had taken over two years before Guardian Financial Services had made her a payment of £7,591. Insurance Companies were protesting that the scale of the problem in terms of administration alone, especially where they faced difficulties in obtaining information from company pension schemes, made it impossible for them to speed up the process of compensation but the financial regulators were beginning to lose patience. In January 1996 the SIB confirmed that the deadline for some 400,000 cases of mis-selling had not been met. In the autumn, IMRO accused Alexander Consulting Group, Godwins Ltd., Heath Consulting Group and Willis Corroon Financial Planning of 'endemic mis-selling'. Between them they had transferred 14,000 employees out of company pension schemes. 'They had given customers unfair and misleading advice, distorted the facts by failing to compare benefits of a company scheme on a like basis with a personal pension' (Hunter, 1996). In total they were fined £405,000 with £225,000 costs.

The Problem Three Years On

As the reviews entered their third year, some trade unions began to worry that claims would be lost as the legal limit for such action ran out. The result was that they started to challenge numerous insurance companies in the courts (Hunter, 1997). The SIB commented that progress had been 'unacceptably slow' and Sir Andrew Large 'blamed slow progress on unduly elaborate forms used by insurance companies and financial advisers to identify clients who may have been mis-sold personal pensions'…He issued guidelines to cut the number of questions from 200 to 8 (Miles, 1996). Only 5 per cent of the 400,000 cases initially identified as a priority had been fully reviewed by the end of 1996. Around 4,000 firms were thought to be involved in the financial scandal.

The New Labour Government which came into office in May 1997 was keen to bring the insurance fiasco to an end. In July it published a 'league of shame', listing 24 companies of which only two had settled more than 10 per cent of their cases. Heading the list was Hogg Robinson, a firm of financial advisers, and Colonial, both of whom had resolved fewer than one per cent. Another five, GAN (formerly General Portfolio) Sedgwick, Abbey Life, Allied Dunbar and Lincoln National had paid out in just one per cent of cases (Miles, 1997b). Together these companies accounted for nearly 60,000 priority cases, but had settled with 626 victims. Peter Smith, General Secretary of the ATL

agreed with the public naming: 'If it is appropriate to name and shame schools, then it is appropriate to name and shame financial advisers' (Smithers, 1997).

The biggest surprise for the public must have been the verdict on the Prudential by the FSA. The Company had been denying mis-selling of pensions, arguing that were was insufficient proof in some cases but finally agreeing that rather than fight individual cases through the courts for several years, they would follow the approach of other companies and offer compensation. The Prudential, one of Britain's largest financial institutions with pre-tax profits of £645 million in the first half of 1997 was heavily criticised by the FSA as a business 'out of control'. Rather embarrassingly for the Company they had earlier run a £20 million television advertising campaign fronted by their £621,000 per annum Chief Executive, Peter Davis, posing as 'the man from the Pru… as a friendly trustworthy uncle' (Hunter, 1997b). A poster signed by Davis declared: 'The Lottery. The Pools. The Pension. One of them shouldn't' be a gamble'. In fact, for some customers, the pensions world *did* seem to have become a gamble. In their advertising campaign, Davis claimed that the Company 'were dedicated to bringing the best possible returns from the safest possible investments' and 'to keep your dreams alive.' For some, those dreams would take the form of a nightmare. It was disclosed that thousands of people had been sold the wrong policies because of misdemeanours by some of the 5,500 sales force. The FSA made six major criticisms of the company:

1. Deep-seated and longstanding failure in management which would not recognise its shortcomings;
2. A cultural disposition against abiding by consumer protection laws;
3. Failing to remedy shortcomings pointed out by previous watchdogs;
4. Selling unsuitable products;
5. Failing to put investors' interests before those of the company;
6. Failing to establish/maintain adequate controls.

This Report completely contradicted the claim by Mark Newmarch, Chief Executive in 1995, who had boasted on a number of occasions that the £10 billion Pru had never mis-sold a policy. It was later to admit to 70,000 potential cases of pension mis-selling, one thousand of whom were teachers. Other companies shown to have mis-sold to teachers included: Teachers' Assurance (750), Sun Life and Pension (600), Colonial (600), Combined Life Assurance (450), Lincoln National (450), Abbey Life and Standard Life (300 each). Now the Prudential would be forced to raise its provision for costs in compensation from £240 million to £450 million.

The 'guilty' within the Financial Services knew that the manner in which they had sold many personal pension plans had been exposed and that the practice should end. There were large-scale redundancies within their ranks, many resulting from the sacking of hundreds of sales staff. Some measure of the staff redundancies was described in the aptly entitled article, 'Death of a

Salesman' by Atkinson published in *The Guardian* in June 1996 (Atkinson, 1996). He wrote:

> At the turn of the decade an army of 220,000 was engaged in selling packaged financial products, including assurance, unit trusts, savings plans and pensions. This did not include about 12,000 brokers selling standard motor and household-type insurance or the number who had started to sell insurance products on behalf of banks. 'Bancassurance' did not become fashionable until the early 1990s when the high street banks took on thousands of people selling everything from pensions to home insurance. Now the total number of salesmen tied to a particular company is closer to 93,000 - a drop of more than 50 per cent.

Financial watchdogs were still highlighting the mis-selling problem half-way through 1997. Among the 600,000 originally identified as priority cases, 18,000 had already died. A fact sheet produced by the SIB for clients made the responsibilities of the companies involved in mis-selling quite clear: 'the pension company must pay for your lost service to be reinstated.' One major organisation facing difficulties was DBS Financial Management, a network of 1,650 independent firms, all needing to look through their files for evidence of mis-selling. The PIA was considering disciplinary action against them if they failed to meet the deadline set. M and E Network based at Leeds were fined £100,000 for failing to complete their review on time, regardless of any mis-selling which might come to light.

Pressure of Regulators

The pressure from the regulators did begin to produce information on the situation in various companies. By mid-way through 1997, Abbey Life had settled 17,000 priority cases of mis-selling (34%), the Prudential with 69,000 cases, the largest of any company had missed its deadline as had Royal and Sun Alliance. GAN (formerly General Portfolio) had settled 5 per cent; whilst DBS Financial Management had failed to carry out its review or complete a single case. Almost a year later, Sun Life of Canada admitted failing to locate nearly 4,000 customers mis-sold pensions and for leaving thousands more out of their review.

It is doubtful if anyone initially grasped the scale of the mis-selling of pensions. Among public sector workers, individual cases of teachers were sometimes highlighted, and as late as 2002 a special needs teacher gained £105,000 in compensation after it had been proven that he had been advised to transfer more than 15 years of pension contributions to a private pension scheme run by Irish Life/City of Westminster Assurance (Mansell, 2002). Even as late as 2003, the ATL stated that 'Some of the cases started in the early 1990s are still not settled…We are still discovering new cases of teachers having been mis-sold a personal pension in the late 1980s and early 1990s who

have not realised they should be seeking redress.' (Miss Marian Bird to Clive Griggs, 13 February 2003). Whilst the exact numbers involved may not be known, the fines on the companies concerned became public knowledge; the top ten fines being as follows:

Company	**Fine (£)**	**Cost (£)***	**Date**
Royal & Sun Alliance	1.35 million		August 2002
Prudential Assurance	650,000		October 2001
Sun Life of Canada	600,000	125,000	April 1988
Britannic Assurance	525,000	125,000	March 1988
London & Manchester Assurance	525,000	125,000	January 1988
Britannia Life Ltd	500,000	15,000	July 1999
Friends Provident Life Office	450,000	20,000	September 1997
DBS Financial Management	425,000	19,450	September 1997
Financial Options/ Investment Options	400,000	87,300	June 1988
Albany Life	375,000	32,000	December 1997

Table 1. Source: Griffiths, 2002. * The cost column indicates the amount of money in terms of restoring public sector pension payments to the individuals who had been persuaded by the companies to change to private pension plans.

This massive financial fraud which seems to have involved around 1.5 million employees over a period of 15 years cost the insurance companies £15 billion. The cost to the individual employees was not just in financial terms, though these were real enough until the regulators and trade unions began to challenge the activities of the pensions industry, but also in terms of considerable anxiety as they began to realise that they had been completely mis-led by advice they had taken largely on trust. It must have been a traumatic experience to think that their retirement would take place in much poorer circumstances than they had been led to believe, due to commission driven sales staff. The second lesson was that for all the demands throughout the 1980s and still prevalent today in many quarters, to deregulate as many areas of industry and services as possible, under all kinds of slogans from 'free the people' to getting rid of 'red tape', it was only when financial regulators began to apply the rules which had been devised to protect customers from exploitation that sections of the pensions industry guilty of misconduct were willing to face up to their responsibilities and recompense the many customers they had mis-led. This is not to deny that some companies do follow ethical practices but they run the danger of being undersold by rivals with fewer scruples.

The incentive to mis-sell private pension plans was fuelled by generous scales of commission, which were partly responsible for sales staff encouraging so many public employees to leave good occupational pension schemes and take up inferior personal pension plans. By the end of the 1990s, commission made

up half the salary of pension sales staff. 'Pension salesmen typically pocket initial commission worth about £1,400 on the average £200-per-month personal pension policy' (Collinson, 1999).

The cost to the insurance industry was almost immeasurable. The fines and compensation paid to date can be calculated; the costs in terms of the administrative task of tracing all the customers over several years are not so easily gauged, especially when the plurality of outlets resulting from the hundreds of financial advisers involved is considered. It must have cost the industry dearly, although given the scale of the profits some made, it was probably a sum that the large companies at least could meet comfortably. As the story unfolded in the media, long-held reputations for probity and reliability must have suffered severely. However the media quickly tires of a story once the impact of it begins to lessen and fresh items of news quickly gain the attention of the public. This fact, together with a good advertising campaign and ability of most people to forget newsworthy stories, especially if they are not affected personally, has meant that the damage to the insurance and pensions industry has not been long lasting. Indeed by 2005, *The Times Educational Supplement* included a section offering advice on teachers' pensions in which 'supported by the Prudential' appeared on every one of the 23 pages, whilst in the Directory the insurance company was listed as 'administrators of the teachers' additional contributions scheme'. It needs to be mentioned that there were certain financial industries which were never involved in mis-selling; for example Midland and Nat West Banks were regulated by IMRO, their salaried staff were not paid commission, they acted promptly and therefore were never fined.

Privatisation of Teachers' Pensions Agency

The 1988 Conservative Administration tried to distance itself from the fall-out resulting from their encouragement in providing the legislation which led to the mis-selling of pensions to teachers. Their enthusiasm for most things private in various areas of education can be ascertained from their privatisation of the Teachers' Pensions Agency (TPA). This Agency had been established in 1992 and employed 350 staff. Gillian Shepherd, as Secretary of State for Education and Science in 1995 (it became the Department of Education and Employment in that year) commissioned a report from Accountants KPMG Peat Marwick which recommended privatising the administration of the TPA which was responsible for running the TSS for 1.1 million teachers and retired teachers. She asked for responses from interested parties by the 25 March but trade unions at the Darlington site suggested a decision had already been made as the Accounting Firm had 'drawn up the specifications for privatising the administration of the TPA'. According to the Union, the Agency had met all its targets with only the additional voluntary contribution scheme (AVC) facing problems and that was the part already contracted out. The NASUWT and the NUT opposed the idea; AMA expressed concern at 'further erosion of accountability' but the Minister's mind was clearly made up and the

privatisation went ahead (Cornell, 1995). What emerges from so many of the machinations over a twenty-year period is that significant numbers of workers in the public sector had good pension schemes and insurance companies, knowingly, tried to persuade large numbers of teachers and those in other occupations to change to inferior private pension plans, in order to make financial gains themselves. Fortunately trade union support and the actions of the FSA acted to put an end to pensions mis-selling and compensate the thousands of people adversely affected. Those employees who have seen major companies end their final salary pension schemes and every one of the FTSE 100 companies except Rolls-Royce has done so or announced plans to do so for new employees, have not been so fortunate. Yet whilst many working people have faced problems concerning their pensions, this has not been the experience of the company directors.

By the end of the 20th century 'the average UK director (was) paid a guaranteed pension of almost £170,000 a year – more than 26 times the national average – according to a report from the Trades Union Congress…the average annual company contribution to a director's salary (was) £80,000 – about 20 per cent of their salary. In contrast, the average company worker…received about 6.5 per cent if they were in a defined benefit scheme, and just under 4.5 per cent if they had a defined contribution scheme' (Daley, 2004). The *Guardian*'s Annual Survey of the remuneration of directors in Britain's biggest companies shows they remain immune to concerns as to whether the country can afford reasonable pensions for the growing numbers of elderly within the community in future years.

> Nine executive directors on the Unilever Board have a pension pot worth £80 million to see them through their retirement and the figure will almost certainly rise as the Group makes more contributions before many of them retire. An inevitable outcome of market forces….Unilever, despite a £1.7 billion deficit in its £9.4 billion pension fund, paid an extra £3 million into Mr Fitzgerald's pension in his final years. He will receive an annual pension of £850,000 combined with the £500,000 a year he receives as non-executive chairman of Reuters. (Inman, 2005)

A few examples from the survey suffice to show the extent of generosity in terms of pension pots provided by companies for those at the top:

Niall Fitzgerald	Unilever	£16,938,000
John Sunderland	Cadbury Schweppes	£13,832,000
Sir Philip Watts	Shell	£12,691,000
Martin Broughton	British American Tobacco	£11,660,520
Richard Harvey	Aviva – Insurers	£12,500,000

Brendan Barber, TUC General Secretary has commented, 'Too many directors have closed decent final-salary pensions for staff and replaced them with

cheaper riskier schemes. Meanwhile, directors have continued to build up enormous VIP pensions, as they tighten everyone's belts but their own' (Prosser, 2005). The TUC's Pension Watch Report revealed that directors of FTSE 100 companies collectively share final salary pension scheme benefits worth £900 millions, with an average pension pot of £2.5 millions each. Inequality in the UK is reinforced by pension arrangements. There are 'colossal state subsidies for the rich. The 10 per cent top earners run off with 55 per cent of all tax subsides. From 2007, they can put as much as they like tax free into their pensions when they retire, they can get out £350,000 without tax.' (reported in *The Guardian*, 2 December 2005). Mr John Cridland, Deputy-General of the CBI stated, 'we believe that all employees should have equal access to pension schemes. There should be no special access terms for directors.'

Rather late in the day it has now been accepted that basic state pensions are likely to be more reliable for modest earners than those subjected to the uncertainty, volatility and decisions made by some of the big players in the financial markets. 'Almost 90,000 rejoined the state second pension (SP2) after Britain's largest insurers warned customers to reconsider their move to opt out of the government system (reported in *The Times*, 15 February 2005). Resolution Life was automatically moving 50,000 policyholders back into the state system. Policyholders of large insurance companies who had agreed to rejoin included 26,500 out of 265,000 at Norwich Union, 20,000 at Legal and General and 37,000 at Standard Life. The Prudential had automatically moved males over 60 and females aged 54, about 5,000 in all, back into the scheme.

It appears that 'the Government and the pensions industry have ignored a second pensions mis-selling scandal to rival the £11.5bn disaster that dominated the 1990s, a leading consumer group' claimed. *Which* produced research showing an estimated 4.5 million people who contracted out of the second pension – the successor to Serps – into a personal pension were likely to get less than if they had stayed in the scheme' (Inman, 2005c). More than £35 billion of state funds were transferred into private-sector schemes since Nigel Lawson launched the scheme back in 1988. Apparently 71 per cent of them will be worse off and lose up to £800 per year. A report by the FSA within days of that published by *Which* re-enforced the findings of the Consumer Group.

In May 2005, the FSA issued 'a damning verdict on the advice offered to pensioners seeking to boost their retirement income by unlocking the value of their homes… It said that more than two thirds of advisers arranging specialist mortgages for older people were not gathering enough information about their customers to know if the products, which can result in the entire value of a home being consumed by interest payments, were suitable' (Inman, 2005a; Brignall, 2006).

Complaints from consumers and firms about misleading advertising by some within the financial industry have also been monitored by the FSA. Changes to 70 advertisements were ordered and in five cases 'the ads were so poor that the Financial Services Authority advised the firms concerned to write

to investors offering them the chance to pull their money out at no cost' (Inman, 2004; Jones, 2004).

Compensation for some Members of Failed Pension Schemes

For all the support for private pensions among those keen on market forces, when things go wrong the State in the form of ordinary taxpayers is expected to provide compensation. When several companies went broke and were unable to meet the obligations they had to 60,000 of their employers, an appeal was made to the Government. Tony Blair gave a personal pledge that these employees would be compensated and £400 million was set aside to fulfil this promise. The Pension Protection Fund (PPF) was faced with requests for nearly solvent companies to put their pension liabilities into the Fund and 'emerge as a financially sound employer.' Insurance broker Heath Lambert's pension scheme had a deficit of £210 million under FSA17 accounting rules in its last fiscal year. It is estimated that the cost to the PPF will be about 95 per cent (Cohen, 2005).

Understandably, the Treasury is concerned that this could set a precedent and allow some private companies to see this as a way in which they might avoid their pension responsibilities (Bennett, 2004). However, for the likes of Frank Bramley, 62, who worked for British United Shoe Machinery for 42 years and lost 37 years worth of pension contributions when the Company went into administration, arguments over who should come to his aid are largely academic. He fell outside the government scheme which provides help to those due to retire within three years. Predictably, his response was to blame 'the Government' and whilst the responsibility for his situation clearly lay with the Company, it does seem as if there was at least some measure of assurance from the Government that these occupational schemes were secure.

Mrs Abraham, the Parliamentary Ombudsman, investigated the plight of 85,000 workers who lost some or all of their pensions after their companies went bust. She said official information published by the Department of Work and Pensions was 'inaccurate, incomplete, unclear and inconsistent' and called for the unfortunate employees to be compensated by the Government (Jones & Inman, 2006). Ministers realised this would cost about £10 billion and Stephen Timms, the Pensions Minister, whilst expressing sympathy with the workers who had lost their pensions said, 'nobody ever said occupational pension schemes were guaranteed by the taxpayer….Responsibility must fall on those companies whose schemes were or are being wound up, and to the trustees who, with the benefit of professional advice, were responsible for protecting members'.

Given the large number of financial institutions and the products they sell, it is inevitable that there will be problems concerning the suitability of advice given to customers and clients. Several conclusions can be drawn from the case of the mis-selling of pensions to public sector workers, including teachers, and

some other examples of misleading financial advice. Voluntary codes are ineffective when dealing with an industry driven by free market principles where the prime consideration for shareholders is the maximisation of profit. Statutory regulations, however cumbersome they may be at times, are necessary to protect consumers from unscrupulous commission driven sales staff. Payment by salary rather than by commission is better for both staff and customers where independent advice is sought. By the end of the 1990s commission made up half the salary of pensions sales staff. The size, prestige and length of time a company has been operating, by themselves are not necessarily a guaranteed guide to trustworthiness, even less their ability to mount expensive advertising campaigns. Individuals are vulnerable when up against powerful institutions; membership of an organisation such as a trade union or professional body offers some measure of protection as they are able to provide funding, legal advice and the power to take up claims on behalf of their members. Companies should avoid a possible conflict of interests where directors dominate pension fund boards. A study by the London Business School found that where this happened, on average, 'smaller contributions were made, higher dividends paid and bigger risks taken with the fund's assets (Hosking, 2005).

Most financial advisers are, in all but name, salesmen and saleswomen rewarded by commission for pushing those products which bring their employer and themselves the best financial return. If at some time the financial services believed in the principle 'My word is my bond', for the customer at least, 'Let the buyer beware' would prove to be a far more appropriate dictum to follow. Another long running private pension scandal was that following the privatisation of the profitable and successful National Bus Company which had a pension scheme in surplus of £114 million. It was the confiscation of this fund which had originally boosted the profitability of the bus company privatisation scheme. The lone fight by busman Frank Wheeler, later supported by the TGWU, involving the ombudsman, Parliamentary debates, appeals to the House of Lords and finally a more sympathetic government, forced the Department of Transport to end the injustice suffered by the bus workers for two decades in which thousands of them had been denied the pension to which they were entitled. Robert Maxwell's misappropriation of funds from the *Mirror* pension fund in the 1980s was clearly not an isolated example of large-scale pension fraud.

Postscript

One might think that the lessons of the private pension scandal would be usefully applied by the Government to the private financial sector which continued to insist that weak regulation and free markets were essential for the continued prosperity of Britain. Yet within less than a decade the continued application of this mantra would bring a financial disaster on a scale which would dwarf that of the mis-selling of private pensions. Disastrous investment decisions in both Britain and other countries were made by richly-paid

executives encouraged by greed and personal financial rewards. They could not envisage the possible bankruptcy of their organisation, which in theory, is supposed to be the discipline applied by the free market. Instead they received millions of pounds in state subsidies as governments sought to protect investors and working people threatened by unemployment and the repossession of their homes. Questions concerning their ethics, scale of 'performance'-related bonuses were raised as were the sums of money pumped in by the Government. Talk of State support of millions of pounds gave way to billions and later even trillions! Calls for stricter regulations of the financial sector, a limit to executive pay and international pressure to be placed upon tax havens which provide the means by which both rich individuals and multinational companies seek to avoid their correct share of taxation have been raised by politicians and the media. It is unlikely that any of these suggestions will be rigorously applied whilst the free market continues to rule, for that is the very nature of the beast.

Abbreviations

FIMBRA	Financial Intermediaries, Managers & Brokers Regulatory Association
FSA	Financial Services Authority
IMRO	Investment Management Regulatory Organisation
LAUTRO	Life Assurance & Unit Trust Regulatory Organisation
SERPS	State Earning Related Pensions Scheme
SIB	Security & Investment Board
TES	Times Educational Supplement

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