



All-Party Parliamentary Justice for Equitable Life Policyholders Group

House of Commons
London
SW1A 0AA

Mark Hoban MP
Financial Secretary to the Treasury
HM Treasury
1 Horseguards Road
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23rd December 2011

Dear Minister,

Equitable Life: Pre-1992 With-Profits Annuitants

Thank you for your letter of 5th December. We note that you have not challenged Mr Forfar's basis of calculations and you now focus your exclusion of the pre-1992 with profits annuitants (WPAs) on the premise that they would not have made a different investment decision as they could not have been aware of the maladministration that was occurring without their knowledge.

Our point is, simply put, that the performance of their annuities to the year 2009 suffered exactly the same effects of the maladministration as those who bought their policies a week, a month, a year or more later. The fact that this group was already locked in before September 1992 does not alter the fact that they suffered exactly the same consequences of maladministration - felt particularly acutely after 2002. In his CSR Statement to the House on 20th October 2010, the Chancellor, George Osborne, promised to honour the Parliamentary Ombudsman's report and he made no mention of excluding any WPAs:

"So let me make it clear: I accept the findings of the parliamentary ombudsman in full. ... those who had with-profits annuities were particularly hard hit, as they were retired and were unable to move their savings elsewhere. As a result, the Government will cover the cost of the total relative loss suffered by those deserving people."

One year earlier, the Parliamentary Ombudsman (PO) stated explicitly to Sir John Chadwick that it was not her intention that the pre-1992 WPAs should be excluded from compensation. On 20th August 2009 she wrote to Sir John Chadwick:

"... my recommendation for redress covered all those who suffered 'relative loss' and the pre-1st September 1992 WPAs are suffering relative loss on a continuing basis..."

Further, on 27th November, 2009:

"...trapped annuitants suffered losses which were caused in part by regulatory failure and for which I recommend that a remedy should be forthcoming."

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Below are three specific points to which we would appreciate your specific responses.

1. First claim

Your letter says that the exclusion from the scheme of the pre-1992 WPAs "... is determined by the application of the PO's report". This does not appear to be the case.

EVIDENCE

The evidence is in Sir John Chadwick's *Advice to Government* (the Chadwick Report) where he states in para 6.21 "... she [the PO] has since stated that that was not her intention" (i.e. it was not the intention of the PO's Report to exclude the pre-1992 WPAs).

2. Second claim

Your letter states that the PO recommended that the aim of a payment scheme "should be to put those people who suffered **relative loss** back in the position they would have been in had maladministration not occurred". But the evidence shows that the Government payment scheme does not do this.

EVIDENCE

The pre-1992-WPAs have suffered and will continue to suffer **relative loss** and are not to be compensated under the Government's current payment scheme. The evidence from both the Prudential and from Equitable Life (and from a WPA payment model developed by David Forfar) is that an average pre-1992 WPA is now providing an income of only £2,300 per annum whereas the exactly corresponding WPA, had it been taken out with Prudential or any other office making payments according to how the stock-market actually performed, would now be paying £4,800 per annum. Thus the evidence shows that the pre-1992 WPAs have suffered the PO's definition of **relative loss**. By excluding the pre-1992 WPAs, the Government payment scheme is in direct contradiction to the PO's report and her recommendations to Parliament. This is despite the Government claiming that it has adopted ALL the PO's recommendations.

3. Third claim

Your letter states: "the first returns that would have been different if maladministration had not occurred were those of 1991 which would not have influenced policyholders' decisions until September 1992". The evidence does not bear this out:

EVIDENCE

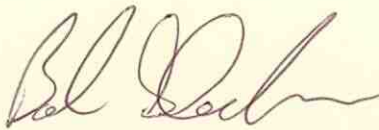
In upholding Complaint 1, **the PO's report concludes that Equitable's 1990 Returns (NOT the 1991 Returns) were misleading and did not reflect the true position of the Equitable** (evidence PO report part one, paras. 13.68-73) and the GAD failed to spot that these were misleading. Equitable's 1990 Returns were scrutinised by GAD in 3 stages (24 and 29 July 1991 and completed on 20 November) - (evidence is the PO's report Part three pp. 64 and 66). The (misleading) 1990 Returns were published by Equitable in June 1991 and were available to the Press or to anyone (policyholder or otherwise) who asked from early July 1991. The evidence therefore shows that the (misleading) 1990 Returns could have misled and influenced policyholder decisions from July 1991 onwards and NOT September 1992, as you maintain.

More than two thirds of these 10,000 pre-September 1992 WPAs made their annuity purchase **after** 1990 and comparative data is available from the Prudential from June 1991 onwards. Equitable Life has also said it would be simple for them to provide an extrapolation
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for a suitable comparator back to 1987. And, of course, any excessive gains in the early years would automatically be offset from any compensation, using the same methodology as that for the post-1992s WPAS.

In conclusion, we reiterate our view that it would be appropriate, compassionate and humane to include the estimated 10,000 pre-1992 WPAs in the payment scheme, calculated on the same basis as the post-1992s through to 2009. Most of the cost of this could be met from the £100 million contingency allocated within the £1.5 billion total compensation fund.

Yours sincerely,



Bob Blackman MP
Co-chairman



Fabian Hamilton MP
Co-Chair



Stephen Lloyd MP
Secretary