



An independent association of
Equitable Life Members & Policy-Holders
funded by subscription

Equitable Members Action Group Ltd

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Rt. Hon David Cameron
10 Downing Street
London SW1A 2AA

and

Rt. Hon Nick Clegg
Cabinet Office
70 Whitehall
London SW1A 2AS

4th November, 2010

Dear Prime Minister and Deputy Prime Minister,

**The deplorable treatment of Equitable policyholders
announced in the Comprehensive Spending Review:
a failure to be fair that will tarnish the Coalition.**

The Equitable Members' Action Group (EMAG) was formed in August 2000. For ten years we fought the Labour government and became accustomed to the deviousness of the Treasury under Labour. Its behaviour demonstrates why the British public have come to hold our politicians in contempt. We and many others hoped that a new government would have a new and more honest approach.

Regrettably you are dashing that hope. You will recall that you both - along with the Chancellor and 379 other MPs - signed the following pledge:-

"I will support and vote for proper compensation for victims of the Equitable Life scandal and I will support and vote to set up a swift, simple, transparent and fair payment scheme – independent of government – as recommended by the Parliamentary Ombudsman."

We have no doubt this gained you votes from our tens of thousands of members which may have helped swing some seats. Post the election a Coalition Agreement stated in mid-May:-

"We will implement the Parliamentary and Health Ombudsman's recommendation to make **fair and transparent payments to Equitable Life policyholders, through an independent payment scheme, for their relative loss as a consequence of regulatory failure."**

Back in March, EMAG had denounced the “Chadwick Process” as a sham and we had expected it to be dumped after the above Agreement was published, because of its remit being to a totally different agenda. In late May we engaged with the Treasury with high hopes that your government would honour your pledges for fairness and transparency. We have been sorely disappointed. First, despite our strong representations, Mr. Hoban insisted on persisting with and publishing the Chadwick report which had been designed to come up with a methodology for minimising compensation. Not only were Chadwick’s terms of reference totally incompatible with your pledge, his methodology was intellectually specious and his conclusions were absurdly unfair. Notwithstanding the patent shortcomings of the Chadwick report, Mr. Hoban presented it enthusiastically to the Commons on 22nd July as a valuable building block. This confused and alarmed Equitable policyholders, many of whom are elderly and distressed and caused the Ombudsman to write immediately to all MPs denouncing Chadwick’s report as “unsafe and unsound”. Only at the 11th hour, three months later, having served its purpose, was Chadwick’s report finally abandoned in the Chancellor’s CSR speech.

The government’s flawed calculation of “relative loss”

As the information that EMAG sought from the Treasury (despite promises of transparency) was not forthcoming, we attempted to engage with the Treasury’s actuarial advisers Towers Watson but we were frustrated and delayed there too in our attempts. Although the Chadwick report has been formally discarded, the Treasury has still retained the flawed basis of calculation of “relative loss” founded on Chadwick’s template. This, despite the PASC committee having called for it to be recalculated correctly and as intended by the Parliamentary Ombudsman. The £4.3bn calculation is deeply flawed in two respects:

First, the Parliamentary Ombudsman clearly stated that the period of loss should start from 1st July 1991. Chadwick cooked up his unsound reasons for shifting the date 18 months to the end of 1992, namely:-

- that because of changes to its computer systems Equitable’s records for the period were not available. However, the chief executive of Equitable (Chris Wiscarson) has made it clear on several occasions to both Sir John and Mr. Hoban that this problem can be surmounted.
- in Chadwick’s fanciful hypothetical reconstruction of a so called non-maladministratively regulated company, the regulator would not have required a re-filing of Equitable’s regulatory return for 1990 and would have been similarly secretive in not making any public statement about Equitable’s appalling financial situation. So policyholders would, Chadwick argues, have continued to invest until the end of 1992. But we have no doubt that if the regulator had acted effectively and transparently, the flow of money into Equitable (which totalled £20bn across the 1990s) would have quickly dried up as the situation became clear to the media and the public. Indeed, the PO wrote to Chadwick in November 2009 that no-one would sensibly have invested after July 1991 had they known the true state of Equitable Life.

We estimate the effect of this misrepresentation was to knock about £700m off the true “relative loss”, because premiums paid in 1991/2 were exposed the longest to the adverse effects of maladministration. This is a clear breach of the commitment to abide by the Ombudsman’s recommendation.

Second, Towers Watson, on the instruction of the Treasury (and presumably with the agreement of Mr. Hoban), claimed on technical grounds that “relative loss” should be calculated by comparing any transfer-out sum actually received by policyholders who departed from Equitable with an industry average comparator “Elsewhere Life” on a like-for-like basis. Whilst superficially this sounds reasonable, it is not. Between 2002 and 2005, hundreds of thousands of policyholders moved savings out from Equitable Life’s with-profits fund and incurred hefty non-contractual exit penalties and costs. For the comparator, Towers Watson, per Chadwick, have **wrongly** applied similar exit costs and penalties to investors in Elsewhere Life. But pension savers in Elsewhere Life would have had no reason to remove their money because they would not have had the need to leave a crippled fund, and so would not have incurred exit costs.

The Towers Watson methodology was particularly hard on late joiners (1999 and 2000). They suffered three policy value cuts in the year after July 2001 which bit deeply into their capital, before suffering further cuts for a non-contractual departure. The Parliamentary Ombudsman’s clearly stated underlying principle (which is defined in the document “*Ombudsman’s Principles on Remedy*”, October 2007) was to:-

“....restore anyone who had suffered a greater loss, relative to that which they would have suffered had they invested in a comparable scheme with another company, to the position they would have been in had no maladministration occurred.”

EMAG estimates that the £4.3bn figure is therefore underestimated by a further £1bn, for incorrectly applied exit cost and penalties from Elsewhere Life and extra investment costs to redeploy the funds. Again, this is a clear breach of the commitment to abide by the Ombudsman’s recommendation.

Despite promises of transparency the Treasury has consistently denied EMAG access to the information needed to check what policyholders’ “relative loss” actually is. This, despite £3m of public money having been spent on the consultants involved. **We estimate the correct figure for “relative loss” to be circa £6bn - at least one third more than the £4.3bn figure accepted by the government.**

Ignoring 10,000 older with-profit annuitants

The government announced that just 37,000 With Profit Annuitants (WPAs) who drew their pension after 1st September 1992 would be fully compensated at a cost of £620m, and there would be £775m for the remaining one million policyholders who lost money (of which 400,000 individuals lost in excess of £500). We welcome the payment to these WPAs because, as a locked-in group, they have been hardest hit. However there are huge anomalies:

- an estimated 10,000 living WPAs who contracted before 1st September 1992 will get nothing - despite the Ombudsman's recommendation (and Chadwick's agreement) which the Government says it accepts;
- there are many ordinary investors in Equitable Life who have been hit, arguably, just as hard as the WPAs by the maladministration of the regulators.

Shortchanging investors in Equitable

We do not consider that excluding the oldest group of WPAs or the offer of £775m to policyholders who have truly lost about £5bn - thus prospectively redressing only 15% of their losses - fulfils either the personal pledges you made or the commitment to fairness made in the Coalition Agreement. Even in today's parlous times, how can you consider fair an 85% cut in compensation?

This is a longstanding debt of honour to right the injustice caused by the regulators over the decade from 1990 and it has been festering for a further decade, damaging the lives of hard-working people who saved for their retirement and many of whom are now very frail and vulnerable.

EMAG has been advised that we have grounds for a judicial review. We will only pursue such a course of action with the utmost reluctance, but given that we have campaigned for justice for a decade we cannot allow fairness to be sacrificed unchallenged. We implore you to reconsider the decisions announced in the CSR and to meet with us to discuss these issues.

Finally, we would ask you to reflect on the plight of those in their 80s and 90s where the wrong done to them is apparently not to be righted. And while 37,000 WPAs may now be feeling they can breathe easier thanks to the Coalition, at least another 400,000 savers and their families who have suffered real losses and the same injustice from maladministration are to be offered a derisory 15% of the losses they've incurred doing what successive governments encouraged - providing prudently for their retirement.

This is not the justice the Ombudsman intended.

We are copying this letter to all MPs who signed EMAG's pledge.

Yours sincerely,

Alex Henney and Paul Braithwaite
Directors of EMAG Ltd