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Subject: EMAG  
To: ""\*\*\*\*\*@btinternet.com""  
Date: Monday, 20 September, 2010, 15:53

Dear Michael

Thank you for your email about the EMAG campaign on Equitable Life.

Following The Equitable Life (Payments) Bill debate in the House of Commons last Tuesday (14th September 2010), I thought it would be helpful to send you a summary on where things currently stand.

It is a measure of the Government's commitment to Equitable Life policyholders that this piece of legislation has been brought forward so quickly. The Bill will now move to Committee Stage where it will receive further Parliamentary scrutiny. It is important to bear in mind that the Bill will not set the level of payments that policyholders will receive. The Bill makes it possible for the Treasury to make payments and deals with the tax treatment of payments. The level of payments will be set at a later date as set out below.

**I have set out** some of the actions the Government has already taken, some of the recommendations which it is now considering, and outlined the timetable for setting up a compensation scheme.

**I recognise** that some of the recommendations which the Government is considering are controversial and understand the strength of feeling on this issue. It is important to remember that these recommendations have not yet been accepted and that they are being considered alongside other arguments, not least those of policyholders.

Unlike its predecessor, the new Government has acted swiftly to deal with this issue. In just a few months it has set up an Independent Commission on Equitable Life Payments, put in place a framework for the compensations scheme, and produced legislation to give the Treasury statutory authority to make payments.

It has been clear since Lord Penrose published his report in 2004 that there had been regulatory failure. Despite this, the last Government sought to evade responsibility and then tried to block the Ombudsman from launching an investigation. Even when they conceded the investigation, Ministers tried to delay her work. When the Ombudsman reported in July 2008 that there had indeed been maladministration and that payments should be made to reflect policyholders' losses, it took six months before the last Government responded, whereas both parties in the new Government accepted her recommendations immediately.

The last Government invited Sir John Chadwick to do more work on the losses suffered by policyholders and the new Government published his report in July 2010 – two years after the Ombudsman's report was published. The

Government will now review Sir John's recommendations alongside other representations, including those from the Equitable Members' Action Group (EMAG).

**I thought I might take a moment** to explain some of Sir John's key findings, though they are by no means Government policy. The loss suffered when the value of policies was cut in 2001 has been described as the absolute loss. Towers Watson has estimated this as £2.9 – 3.7 billion. With consideration to the Parliamentary Ombudsman's findings, Sir John identifies relative loss as the difference between the returns received by policyholders investing in Equitable Life and those received had the policyholder invested elsewhere. This approach values the relative loss at £2.3 – 3 billion.

This means that for some policyholders their relative loss is greater than their absolute loss because of the strong performance of comparable companies. Sir John therefore proposes to cap relative loss at absolute loss – consistent with the Ombudsmen's findings. It would be inappropriate for policyholders to be paid more through redress than they would have lost. Therefore, Sir John has proposed that relative loss should be capped at the absolute loss.

Had Equitable Life been properly regulated, some policyholders would have invested elsewhere, but some would have not. This

requires some judgement, as it will never be clear how much investment would have fallen. From his research, Sir John concludes that the majority of policyholders (75-80 per cent) would have made the same investment decision, irrespective of maladministration. **Sir John therefore proposes that policyholders should receive 20-25 per cent of their capped external relative loss. This results in a figure of £600m. I understand this is a concept which EMAG supports, (PB: ABSOLUTELY UNTRUE!)** but EMAG believes a smaller proportion of investors would have made the same investment decision. It is important that the Government considers all representations on this figure and it is right that Ministers have not simply accepted Sir John's estimate.

Further loss occurred from money that remained in Equitable Life after maladministration became apparent. Sir John has reconstructed how Equitable Life might have performed and considered the gains made by some policyholders as a result of maladministration. This reduces Sir John's estimate of losses to £500m.

The Government's priority is to establish a fair and transparent payment scheme as swiftly as possible, as was recommended by the Parliamentary Ombudsman. I am aware of the Ombudsman's recent comments and know that she has subsequently met with Treasury Ministers.

**It is the belief of the Government that Sir John Chadwick's advice to HM Treasury is a building block that helps the Government to produce a fair and transparent payment scheme,** but it would be wrong to assume that the Government believes it represents the final answer.

**I am well aware** that some of Sir John's findings are contentious and are based on complex analysis. The Government must reflect on his report and listen to representations by interested parties.

As the Ombudsman noted in her report, it is appropriate to consider the impact of the payment scheme on the public purse. The scheme will be a significant spending commitment for taxpayers and as such, it would not be right to consider this in isolation from other spending priorities.

The new Government has acted quickly to establish a clear timetable for handling this issue. It will set out more details on plans for compensation at the time of the Spending Review in October. Its aim is for the first payments to be made, through the Independent Commission, in the middle of next year.

Ministers have already accepted EMAG's suggestion that Brian Pomeroy, former Senior Partner of Deloitte Consulting, be appointed to the Independent Commission.

Two other decisions that the Government is already clear on are that there should be no means testing and that the dependants of deceased policyholders will be included in the compensation scheme.

We have now heard the views of Sir John Chadwick, the man appointed by the last Government following the Ombudsman's report. It is important and right that Ministers are now also considering detailed representations from those who have suffered - the policyholders.

Best wishes,

Charles Hendry MP

Member of Parliament for Wealden