

## Letter Mark Hoban to Simon Wright MP, 19 January 2011

19 January 2010

Dear Simon

Thank you for your letter of 11 January enclosing correspondence from your constituent, Mr Y about Equitable Life.

I would like to begin by assuring you that the Government takes the Equitable Life issue very seriously and has taken significant steps in establishing a payment scheme for policyholders that is swift, fair and transparent.

The Government is very aware of the need for swift action on this issue. However, establishing a scheme of this kind is not a simple task. The Equitable Life (Payments) Act 2010 makes provision for National Savings & Investments (NS&I), the Government's preferred delivery partner, to use its powers to deliver this scheme. The Government is in detailed discussions with NS&I with regard to the operational aspects of the scheme.

It is necessary to be very clear with NS&I about what the requirements of the scheme are, and you will appreciate that delivery on this scale brings with it significant additional considerations, including:

- Commercial considerations, in order to ensure value for money is achieved;
- Obligations in relation to the management of personal data;
- The management of third party stakeholders;
- A call centre and website needs to be in place to provide information and answer people's questions;
- An established appeals process for managing complaints;
- Scheme rules to govern the operation of the scheme; and
- The final scheme design document will need to be made available for parliamentary scrutiny.

The Government is working as quickly as it is able to progress the delivery of the scheme, but it is not possible to speed up payments to With Profits Annuitants for the reasons identified above.

Mr Y also raises the issue of the exclusion of the pre-September 1992 With Profits-Annuitants (WPAs). This issue has attracted a lot of discussion since the Spending Review announcement. It was debated extensively in Parliament during the Third Reading of the Equitable Life Payments Bill, with Parliament voting comprehensively to reject an amendment that would

have included this group within the scheme.

The Government's decision on this matter is based on the Ombudsman's findings. In her report, the Parliamentary Ombudsman recommended that the aim of the scheme should be "*to put those people who suffered a relative loss back into the position that they would have been in had maladministration not occurred*".

Until the 1991 regulatory returns, which investors would have seen only from September 1992 onwards, the returns of a properly-regulated Equitable Life would not have differed from the actual ones. Therefore WPAs who purchased their policies prior to 1 September 1992 did not rely upon regulatory returns which were inaccurate as a result of maladministration in making their decision to invest in Equitable Life. They would still have invested even if maladministration had not occurred and, once invested, were locked in. Meeting the Ombudsman's recommended aim of the scheme therefore cannot involve payments based on the assumption that they would never have invested in Equitable Life or would have moved their funds elsewhere.

Complying with the Ombudsman's approach therefore requires an assessment of the effect of maladministration on policyholders who remained invested in Equitable Life. Towers Watson and Sir John Chadwick did assess this, based on Internal Relative Loss figures. Internal Relative Loss is the difference between what policyholders received from Equitable Life as it was and what they would have received from a properly-regulated Equitable Life. It is the only rational basis for assessing whether pre-September 1992 WPAs suffered loss. Towers Watson's calculations showed that pre-September 1992 WPAs in fact received more from Equitable Life than they would have done in the absence of maladministration, due to the high bonuses they received in the early years. Accordingly they did not suffer a loss in respect of which they should be compensated.

For pre-September 1992 WPAs, the reduction in the levels of annuity payments that they have experienced are largely due to a combination of poor investment market performance, and the fact that early annuity payments were artificially high due to the structure of the product and over-bonusing.

Please pass on my thanks to Mr Y for taking the trouble to make us aware of these concerns.

Mark Hoban