

Press statement for immediate use
9 February 2009



Equitable group challenges legality of Chadwick appointment by Treasury

Equitable Life policyholder action group EMAG has demanded that the Government drop the appointment of Sir John Chadwick to advise the Treasury on payments to victims of the Equitable Life scandal.

In a letter sent today to the Lord Chief Justice and the Lord Chancellor, EMAG say that their lawyers, Bindmans LLP, advise them that the Government's decision to appoint a retired Judge undermines the constitutional principle of separation of powers and the independence of the judiciary.

"The process proposed is nothing more than a cheap trick to lend a veneer of judicial respectability to a dodgy hardship scheme." said Paul Braithwaite of EMAG. *"The Treasury's latest ruse means that more than 90% of the victims of this scandal would receive absolutely nothing."*

The action group alleges that the ministerial Statement to Parliament by Yvette Cooper appeared to deliver a fulsome apology and implied comprehensive acceptance of the Parliamentary Ombudsman's report, without disclosing that the Command paper released later that day was totally at odds with the tone of Cooper's Statement. The subsequent detail revealed that the Government had actually rejected three out of four of the Parliamentary Ombudsman's findings of Injustice in respect of issues requiring substantial compensation and that the remit of Sir John Chadwick is restricted to just one that is left. EMAG claims that this prevents Sir John from advising on any premiums paid before May 1999, effectively excluding more than one million policyholders from any form of redress.

Bindmans' advice goes on to note that prior to retiring, Sir John Chadwick himself wrote the leading judgment which redefined the relationship between the Ombudsman and Government (the Bradley Case judgement, 7 February, 2008).

The letter says: *"it is to be noted that the Government was a party to the dispute – on which Sir John adjudicated – about the very issue which will arise in any challenge to the Government's response. It is hard to imagine that a judge who had determined an issue between two non-government parties would, after retirement, accept an appointment to advise one party on an issue related to that on which the judge had been called upon to rule. Such an approach would undermine the appearance of judicial independence and impartiality. It involves the appropriation of judicial authority, potentially for the benefit of one party against its opponents."*

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EMAG has already testified to the Public Administration Select Committee about what it sees as the substitution of a limited ex-gratia hardship-based payment for the independent, transparent and accountable tribunal called for by the PO. Colin Slater of EMAG said: “ *“The Treasury has been convicted on five counts of maladministration. Now it has appointed its own judge to hear its appeal in private at a time and place and in a manner of its own choosing.” **

A copy of the letter from EMAG has also been sent to the Treasury and to Sir John Chadwick.

Ends

Editors notes:

Attached is Bindmans’ letter to EMAG, which contains extensive argument as to why “The Chadwick Process” is flawed and should be set aside. Also, EMAG’s letter to the Economic Secretary to the Treasury, Ian Pearson MP.

Link to “Guide to Judicial Conduct”:

http://www.judiciary.gov.uk/about_judiciary/governance_judiciary/jud_conduct.htm

*Verbal evidence to PASC (see in particular question 81):

www.publications.parliament.uk/pa/cm200809/cmselect/cmpublicadm/uc219-i/uc21902.htm