

Written Ministerial Statement

Equitable Life

The Chief Secretary to the Treasury (Liam Byrne): Last week, I promised to update the House on the Government's response to the judgment handed down on 15 October 2009 in the claim for judicial review brought by the Equitable Members' Action Group. The judgment was handed down last Thursday and I am now able to tell the House of the Government's proposed approach.

The claim challenged several aspects of the Government's response of 15 January 2009 to the Parliamentary Ombudsman's report into the prudential regulation of Equitable Life. The Government has studied the terms of the judgment with care.

We welcome the Court's rejection of the challenge to our decision to establish a scheme to make ex gratia payments to policy holders who have suffered injustice. These payments will be to people who have suffered disproportionate impact, arising from maladministration and resulting in injustice accepted by the Government. The Court accepted the Government was entitled to seek Sir John Chadwick's advice in establishing the scheme, and recognised that it is legitimate to consider the public purse in its design.

The Court went on to identify three instances where it held that the Government had focussed too narrowly on the issue of regulatory compliance. It found that a wider interpretation of injustice was required, and thus ruled that the Government would need to reconsider its decision to reject the Ombudsman's findings of maladministration in relation to Finding 5 and of injustice in relation to Findings 2, 5, and parts of 4.

These three findings can be summarised as follows. Findings 2 and 4 relate to the failure to ask and resolve questions arising from Equitable Life's regulatory returns for 1990-1996, in particular in relation policies around interest and bonus rates. The Ombudsman's view was, broadly, that any policyholder relying on these returns, who suffered either a financial loss or a loss of opportunity to take an informed decision, suffered an injustice.

Finding 5 found that, with regard to returns filed in 1995, the Government Actuary's Department failed to ask for the necessary information from Equitable Life in order to ensure proper scrutiny of the

company. The finding also found that the regulator failed to correct a misleading impression given by these returns when it knew independent observers were being misled.

The Government has decided that, in the interests of speed and its wish to act fairly for policyholders, it will accept the findings of maladministration in relation to Finding 5, and of injustice with regard to Findings 2, 5 and those parts of Finding 4 dealt with by the Court. I have asked Sir John to include these findings within those accepted cases of maladministration resulting in injustice upon which he is advising HM Treasury.

This will expand the scope of his work, primarily by bringing forward the start date for the findings he is considering from July 1995 to July 1991 (the time regulatory returns first had the potential to mislead users), but should not unduly delay it. His overall task remains the same, namely to advise the Government on those policyholders who have suffered disproportionate impact as a result of those cases of maladministration leading to injustice which the Government now accepts. The Government remains firmly committed to introducing a fair ex gratia payment scheme as soon as possible, taking benefit from Sir John's advice on the apportionment of responsibility and practicality of delivery, and having taken account of the public finances. Our goal is to introduce a scheme that is administratively quicker and simpler to deliver than that envisaged by the Ombudsman.

In light of the timing of the judicial review judgment, Sir John has extended to 27 October his deadline for representations to his 18 August interim report. His task is considerable and complex, but he will advise as quickly as he is able, including by providing interim updates and conclusions on a continuing basis. I will update the House on his progress in due course.

HM Treasury
20th October 2009