



20 March 2009

Dear Member

EQUITABLE LIFE

I am writing concerning the follow-up to my report *Equitable Life: a decade of regulatory failure*, which I laid before Parliament in July 2008.

Since the publication of my report, the Public Administration Select Committee of the House of Commons, appointed to consider my reports, has conducted an inquiry into the issues raised by my report, taking evidence from a range of interested parties. I gave both oral and written evidence to assist the Committee in that inquiry. The Select Committee published an initial report in December 2008, entitled *Justice delayed: The Ombudsman's report on Equitable Life*.

The Government published its response to my report on 15 January 2009. This accepted some, but not all, of my findings and in the House Ministers apologised for the maladministration which the Government accepted had occurred. Ministers said that they had given careful consideration to my central recommendation—that the Government should establish and fund an independent, transparent, and speedy compensation scheme which would restore those relative losses sustained by policyholders. However, the Government had decided not to accept that recommendation.

Instead, the Government has asked Sir John Chadwick, a former judge of the Court of Appeal of England and Wales to advise it on the establishment of a fair scheme for the making of *ex gratia* payments to those of the Equitable Life's policyholders and annuitants who had suffered '*disproportionate impact*'.

The Select Committee then took further evidence on the Government's response to my report. I gave further oral evidence and submitted further written evidence to assist the Committee. All of that evidence is now in the public domain. The Committee yesterday published its further report *Justice denied? The Government's response to the Ombudsman's report on Equitable Life*. That report, as you will know, describes the Government's position as '*shabby, constitutionally dubious and procedurally improper*'.



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It will also be clear to Members from the evidence which I have given to the Select Committee that I too do not consider the Government's response to my report to be satisfactory. In particular, I am concerned about three aspects of that response, namely the rejection of findings of maladministration and injustice, the basis on which those rejections were made, and the alternative approach taken by the Government to the questions of remedy and redress.

In general terms, my role is to investigate and report on complaints referred to me by Members of Parliament. Once I have produced a report setting out the results of any investigation, my role is limited. It is for the relevant public bodies to decide how to respond to my reports and for Parliament to consider the adequacy of such responses. I will, of course, assist Parliament when it does so, as I have done on this occasion.

However, section 10(3) of the Parliamentary Commissioner Act 1967 further provides that if, after conducting an investigation, it appears that injustice has resulted from maladministration and that such injustice has not been, or will not be, remedied, I may, if I think fit, lay before each House of Parliament a special report upon the case.

It is clear to me from the Government's response to my report and from the further evidence given to the Select Committee on behalf of the Government about that response that, whatever the outcome of the work to be done by Sir John Chadwick, a full remedy will not be forthcoming for the injustice resulting from the maladministration I found had occurred in the prudential regulation of Equitable Life.

I have carefully considered whether, in such circumstances, it would be appropriate for me to produce a further report using the power given to me by section 10(3) of the 1967 Act. I have decided that I should do so.

I will therefore produce such a further, short report once Parliament returns from the Easter recess. We will send you a copy of that report once it is published.

Yours sincerely



Ann Abraham
Parliamentary and Health Service Ombudsman