Public Accounts Committee

Oral evidence: Equitable Life Recall, HC 1275-i

Monday 12 May 2014

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Members present: Margaret Hodge (Chair); Mr Richard Bacon; Jackie Doyle-Price; Chris Heaton-Harris; Meg Hillier; Mrs Anne McGuire; Austin Mitchell

Amyas Morse, Comptroller and Auditor General, Gabrielle Cohen, Assistant Auditor General, and Steve Corbishley, Director, National Audit Office, and Marius Gallaher, Alternate Treasury Officer of Accounts, were in attendance.

Witnesses: Jane Platt, Chief Executive, National Savings and Investments, and Mike Williams, Director, Business and International Tax, HM Treasury, gave evidence.

Q1 Chair: Thank you for coming back. As I prepared for today, I noticed that most of the recommendations and actions we requested the last time we were here have been implemented, so thank you for that; we are grateful.

This hearing really arises out of a meeting I had with a cross-party group we have in Parliament on Equitable Life. Today's meeting might be very short, but there are one or two issues remaining, which we want to discuss. You will remember from last time that people were very concerned that they could not work out the basis on which the award was made—the calculations from Towers Watson were so obscure that nobody could understand the basis on which they were made. You went away, having promised to do some examples—I do not know whether you did provide them, but you can come back on that. What has remained a problem is that, despite those examples—if you did provide them—there is still a great lack of clarity as to how the calculations are made and whether, therefore, they are accurate.

I want to link that to the other issue that was raised with me. Clearly, if somebody is unhappy with the award, they have the right to appeal, and my understanding is that there have been 500 appeals—you can come back on that, too—of which only 11 have been successful. There is the concern that people do not understand the first settlement; they then go to appeal—that is not a lot of appeals, given the number of settlements—but only 11 appeals have been upheld. Again, there is a lack of understanding and a lack of confidence that the system is really just and equitable. Those are the issues we want to raise with you, and there might then be a couple of other, subsidiary ones. Mike Williams, these issues are probably more for you.

Mike Williams: If we start with the calculation, there are details of the calculation printed in the annex to the scheme design, but I think you are right to say, and we accept, that it is quite difficult for the layman to follow. It is couched in actuarial language, and in a sense that is inevitable, but equally it makes it quite difficult to understand. Following the last hearing, we put further details of the comparator on to the website. In accordance with the scheme rules, you look and see what amount of money would have been made by investment in the comparator, and you compare that with the amount actually made, and that gives rise to the figure, where there is compensation.

Beyond that, we are in the process—this is your point about the calculations, Mrs Hodge—of producing a step-by-step explanation of the calculation in layman's language. Inevitably, there is not just one of those; there is a number of different sorts of policyholder, so there is a number of different examples. A first draft of those examples is with EMAG, and we hope to get them published in final form very soon after their review. In addition—this goes back to the nature of the calculating engine, which, as you say, was devised by Towers Watson—EMAG and the Treasury's actuarial representatives have met and discussed the calculation in more detail, in the hope of resolving queries about how the calculation is actually made.

Q2 Chair: I have to say, this is crazy. It is very, very late; it should have been done earlier. We reported in about July '13, so our hearing was in May '13—a year ago. At that point, you were promising those examples in June. Am I right?

Mike Williams *indicated dissent.*

Q3 Chair: I think, according to the transcript, you said June.

Mike Williams: I don't think we did say June for that. We did put further information on our website in June, particularly about the comparator calculation.

Q4 Chair: Hang on, I can quote you—thank God I read it. This is actually evidence given by Paul Weir: "The Treasury's best offer to our lawyers was, 'We will come up with some worked examples,' which they haven't done yet, 'by June.'" I accept that that was not your evidence. Let me go to your evidence and see if we have that. June was mentioned—I picked it up as a date a number of times. Can I get advice please—was it June?

Steve Corbishley: It is in the Treasury minute response: the initial comparators were published in June 2013, which I think is what Mr Williams was just referring to.

Chair: But not proper worked-out examples.

Mike Williams: As you have just illustrated, Mrs Hodge, I did not say at the last hearing that examples would be produced by June.

Q5 Chair: Okay. So you are now saying that they are out for consultation.

Mike Williams: They are. I have copies of three of them with me.

Q6 Chair: Perhaps Jane Platt can help on this one. We are presumably getting to the stage now where you are reaching more complicated cases.

Jane Platt: Absolutely. We have now made payments of £901 million, and that is 88% of the scheme paid out by value, so in terms of the payments that we think are left to make, we are down to about 136,000 payments. Complaints are down 61% generally—down to about 1,200 in the whole year. Given the large number of payments that have been made since we were last here, people are generally not raising any issues.

Q7 Chair: I understand that. Are the ones you are dealing with more complex?

Mike Williams: You cannot necessarily assume that, because the challenge that the scheme has had has been in tracing people who are eligible for payment. Therefore early on, there will have been some really quite complex ones involving a large amount that were paid because they were traceable, the calculation had been done and the payment was made to them. Quite a lot of the ones more recently have been in group schemes, where the average amount of payment is distinctly smaller. Equally there have been some people who could have been paid earlier had they been traced earlier. I do not think you can assume that the ones being paid later are necessarily more complicated. Indeed, I would say that the group schemes are less complicated on average than the individual ones, because they were less tailored.

Q8 Chair: Well, we are late in the scheme. The scheme is closing down when?

Mike Williams: The scheme is closing down towards the end of 2015.

Q9 Chair: And this example of the calculation is with EMAG now?

Mike Williams: Yes. There are multiple examples—there’s not a single thing that covers all of them.

Q10 Chair: So there are a number. Can you confirm that this will give EMAG three things that I think they want? One, they want the model to be able to be validated by their own actuaries. Two, they want to feel that they have enough information to make their own calculation of entitlement—no doubt, you still might want to challenge it, but they should be able to do that. Three, they should know all the assumptions that are in the model—weightings on the start date and things like that.

Mike Williams: Most of those have already been out there. The difficulty is that the data is difficult to manipulate. For example, the assumptions made are clear from the technical annex to the scheme rules. Equally, having put the details of the comparator out in

June, that information is there. The difficulty is manipulating a very complex set of data in quite difficult circumstances, because there were often a lot of payments, not just a payment at the start: you would have follow-on payments or, for example, one of the policyholders would die and there would be a transfer to another policyholder. It is the complexity of that, not about having the information, that I think gives rise to the difficulties.

Q11 Chair: If it is so ruddy complex that I cannot do it, I am always very suspicious. If an ordinary, intelligent person—actually, most claim holders—cannot understand their entitlement, it worries me. It creates a sort of suspicion in my mind.

Mike Williams: Let me give you an example from one the drafts where there are eight steps to follow to produce the number. I think they are quite clearly laid out; I would not pretend it is easy because the whole background is not easy, but if you followed those steps, you would be able to work out the answer. Back to your first point about validating the model; there are two points: one, the actuarial model was peer reviewed before we put it into operation; and, two, there have been discussions with Equitable Life about the assumptions going into the model.

Chair: With EMAG, you mean.

Mike Williams: Sorry, with EMAG. I apologise.

Q12 Chair: Okay, but have their actuaries validated the model? There were discussions. Have they looked at the model? Do they understand it? Does one actuary talking to another actuary get it and feel that it is fair and just?

Mike Williams: There have been discussions. As I understand it, those discussions clarified, and therefore narrowed, areas of dispute in a number of areas. As for whether they are satisfied, I think that, ultimately, you would have to ask EMAG that.

Q13 Chris Heaton-Harris: I should just say that I am, or was, an Equitable Life policyholder, so I received my first cheque in September. I'm not sure if I should be saying thank you or not for it.

The total fund was half a billion pounds, wasn't it?

Chair: More.

Chris Heaton-Harris: How much was the total fund?

Mike Williams: The total fund set aside in the spending review period is £1.5 billion.

Q14 Chris Heaton-Harris: And the projected take-up: how much do you project you are going to spend?

Mike Williams: We project that, by the end, the scheme will have paid 87% of the policyholders and 92% of the funds.

Q15 Chris Heaton-Harris: So what will happen to the remainder of the fund when we get to 2015 and it winds up?

Mike Williams: That is for Ministers to decide in 2015 when we wind up the scheme. The decision on what should happen to any funds that have been set aside that remain is for Ministers to make when the scheme is wound up. Obviously, in the meantime, additional money has been spent on making payments to the pre-1992 with-profits annuitants, as I think you will recall.

Q16 Chris Heaton-Harris: So there is a chance that about 8% of the fund will be unspent. Ministers will make a policy decision at that time whether to churn back out a few pennies to EMAG or those who are registered properly, or to take it back into Government funds.

Mike Williams: I would not want to speculate on what Ministers will decide in 2015.

Q17 Chair: But you will not have identified all claimants, so it would be sensible to keep a pot of money there in case anybody comes in even later.

Mike Williams: That is certainly something that we will have to consider. I think we will have identified who all the claimants are by reference to their policy numbers. The problem is that we won't have been able to trace them to pay them.

Q18 Chris Heaton-Harris: On the traceability—you gave me a percentage and I have completely forgotten it. Did you say 87% of people will receive some money?

Mike Williams: Yes, by the end of the scheme, we expect to have paid 87%.

Q19 Chair: Expect, and so far you have paid 83%?

Jane Platt: We have currently paid by volume 83%. We expect to pay 87% by volume. That will leave about 136,000 people unpaid, of whom about 6% will, sadly, be deceased; some 21% will have received letters but not responded to them—they will have received multiple letters—and 73% of that 136,000 will have no address for us to contact them.

We have made strenuous efforts since the last hearing to contact people. We had a successful advertising campaign, which reached 82% of adults over 55 in the relevant groups and resulted in 55,000 more customer interactions and 8,000 more payments. We have enhanced our electronic identification, which has identified 112,000 more people with addresses; and we have also had a relationship with DWP, who have been able to forward on some letters to individuals. So tracing has gone extremely well, but at the end of this, based on the experience to date of using those enhanced methodologies, it is still the case that 73% will have no address.

I should also say—sorry there are so many numbers—43% of the 136,000 are due less than £100 each. It could well be that, in some of the deceased estates, the cost of the estates opening up to claim the £100 is one of the reasons why those people are not coming forward. We are googling every single one of the people with the largest amounts still outstanding—£25,000 or more—to see if we can get some kind of address. We really are trying as hard as we possibly can because, ideally, we would love that 136,000 to be much lower, but it would be wrong of me to sit here and say, based on the evidence we have to date and given the efforts we have made so far, that it will definitely be lower.

Q20 Austin Mitchell: I should declare that I too was a policy holder through the old, FSSU scheme, the university scheme. My question is about customer service. The Committee, the NAO and we as individual MPs were getting complaints about the way Atos was sending out duplicate letters—they were just the same as the original—and template letters that did not answer people's questions, and it could not answer their questions when they rang in. One of our recommendations was that that should be tightened up and improved. Has it been?

Jane Platt: It certainly has been, I am pleased to say. Following our last appearance, we had a root-and-branch review of customer service and that shows through in the number of complaints we have received, which are down 60%, and we are not getting complaints about letters being formulaic. We have spent a lot more time on training and making sure that people get the customer service that they should.

Austin Mitchell: So you are not getting as many complaints. I am certainly not getting many complaints.

Q21 Chair: No. I think it has got better. EMAG said that they want three things from this. It is all about the transparency of the calculation, which is what I think people are getting het up about. You are letting them have the examples that have been drawn. Will they have the ability to calculate their own individual entitlement? Should they have that ability now with the information that they have got?

Mike Williams: Based on those examples, yes. If you had actuarial support, it is possible using the technical annex. It would be possible to do that now; it would just be more difficult.

Q22 Chair: Okay, so they should be able to calculate the entitlement.

Mike Williams: Yes.

Q23 Chair: Can they also see the assumptions underpinning your model?

Mike Williams: The assumptions are primarily in the technical annex that was published as the scheme rules.

Q24 Chair: So they can see the assumptions. Would you agree that, in those cases, where there is a disagreement between their calculation and your figure, or the figure from Towers Watson, somebody will sit down with them and work through how you got to your figure?

Mike Williams: I wouldn't commit to that in individual cases, Mrs Hodge, because I can't say how many of those cases there are and the actuarial input into that might be very expensive. I think the key is to divide the cases into categories and then provide these examples, which enables you to do this by category.

Q25 Chair: I think that is a bit mean, if I may say so. I do not think you will be inundated. You have done most of the cases and you have got most of the money out. Where they have done a calculation that disagrees with their actuarial support—based on, you say, an ability to calculate their entitlement and an openness over the assumptions—and you end up with a different figure, I do not think it is unreasonable or asking too much in those individual cases, on which you can have a bit of discretion to make sure those conditions are met, to just say, "We will sit down and go through them with you," or that somebody will. I do not think that is an unreasonable request, Mr Williams, and it would buy an awful lot of feeling that there is a real partnership working its way through the issue.

Mike Williams: Two points on that and then, if you will permit me, I will go back to your point about the appeals. One is that EMAG's and the Treasury's actuarial representatives—in our case, Towers Watson—have met and discussed the calculation in more detail to resolve queries. If there were a desire to do that again, I would be happy to make that commitment. What I cannot, I think, make a commitment to is that we would give an open-ended commitment to the Treasury incurring actuarial costs in every particular case that might arise, without clarity about, for example, how many of those cases there are. The actuarial costs are one of the highest costs from the running of the scheme, and I do not think it would be appropriate for me to do that.

Q26 Chair: How many would you be expecting to get?

Mike Williams: I do not know how many.

Q27 Chair: I think this is a sort of, "I am not going to do it because it could be thousands and thousands," and it will probably end up being 10, which is not unreasonable.

Mike Williams: I have with me three example calculations, so if it were only 10, it is quite likely that the example calculations we have given to EMAG and which they are looking at will actually solve those cases, or at least one would hope so. But I do think that the key is not the individual cases, because they are processed by a computer that simply follows rules. The key is ensuring that there is satisfaction about how the assumptions are then fed through into the coding of the computer.

Q28 Chair: But there is not, because there is a disagreement—we are going to go on and on—at the end, about your figure and theirs. It does then play into the appeals issue, because they then go through into the appeals and no one has confidence in that because they do not understand quite how their figure is different from your figure. Only 11 appeals have been upheld. Who does the appeals?

Mike Williams: There is an independent review panel that was specifically created for people who, for example, have complaints or are dissatisfied with the amount they have received. They are independent of the scheme—

Q29 Chair: Who? Do you appoint them?

Mike Williams: They were appointed after an open advertising process.

Q30 Chair: Who are they? Actuaries?

Mike Williams: No. They are people with a range of qualifications; they are not generally actuaries. But then, of course, in many cases the issue in dispute is a factual issue. You will get a different amount of money if you paid into the policy at a different time, and the dispute may be that the data that the scheme has might say the date was x but the complainant might think the date was y. In a case such as that, it is not an actuary you need to sort it out. You have to look and see when it is most reasonable to suppose that the payment was made.

Q31 Chair: Why have only 11 been upheld? Are those figures right—500 appeals?

Mike Williams: I will need to come back to you on the numbers. To me, just looking at those numbers in isolation, if there were 500 appeals I think a key question in comparing the 11 is how many of those 500 have so far been settled by the independent review panel.

Q32 Chair: Is the independent review panel advised by Towers Watson?

Mike Williams: The independent review panel has access to Towers Watson.

Q33 Chair: So who gives the panel actuarial advice?

Mike Williams: If I have understood correctly the arrangement we have, there are circumstances in which they could get actuarial advice.

Q34 Chair: From who?

Mike Williams: That would be from Towers Watson.

Q35 Chair: So the person who takes the decision then gives the advice on appeal? That does not sound very brilliant. I want to get on, but I think you should think about that. At the moment, people are not happy, on the margin. There is a lot that has gone better, but on the margin there are a bunch of people out there, represented by an all-party group of MPs, who feel that the transparency is not good enough. So I would ask you two things. One, that you go away and think about whether you can define some circumstances in which you would be willing to go through the details of the calculation, where there is a disagreement between yourselves and the individual or the individual's advisers, on the amount that is determined. Two, that you write to us—we may be able to do this in correspondence—about the appeal mechanism to give us satisfaction that it really is independent. If I say to you, "It is an appeal mechanism that is advised by the people who took the original decision," that does not smell to me like an independent appeal mechanism, so you may have to think about that again.

Mike Williams: I am very happy to write to you about the appeals process, Mrs Hodge. On your first thing, I very much agree with you. The scheme has been going better. For example, there have been fewer complaints. Equally, I agree with you that, at the margins, there are people who want to know more about their calculation. I think what we have to do is to try and find the best means of doing that in a cost-effective way. That is why we have the examples that we have worked up with EMAG.

Q36 Chair: Well, I want you to think about it. Amyas is just coming in.

Amyas Morse: As we are having this conversation, perhaps also try to avoid surprises on the closure of the scheme? I know you will have thought of that. However, the sooner you can telegraph what arrangements you are going to make, if there is a tail—and the likelihood is that there will be one—what are you going to do about that? How are people going to have visible fairness of treatment at that time? If we are going through this, rather than saying, "We will have another discussion about that," why don't we try and get everything, so that is clear as well, if I might suggest that?

Mike Williams: I can confirm that we share the view that there should be no surprises around the closure of the scheme. Equally, I think that the numbers that Ms Platt gave earlier, on the additional payment, show that we have been more effective in tracing people on a one-on-one basis through the DWP than we have been through advertising. The advertising had quite a good response rate, for advertising of that sort, but it did not actually enable us to pay many more people.

Amyas Morse: Forgive me. I was not trying to be critical of what you had done at all. I was simply saying that, when your projected closure date for the scheme begins to approach, it would be quite helpful for people to know what is to happen. It cannot be a matter of conjecture. I am quite sure you have already thought about that. If we are going through all this, it might be useful to set out the parameters of that as well. That is all—I am trying to be helpful.

Chair: We don't want to have you back again. So go away and think about it. See if there is a way you can support that concern, just to see a bit more transparency and to make sure that people are being treated fairly. That is truly all it is about. Write to me about the appeals—I hear you don't want to do it—but write to me and see whether there is a way you can look at a limited number of cases to give comfort to EMAG, as the representative body. Thank you.