

## European Parliamentary Committee of Inquiry into Equitable Life *further memorandum from the Financial Ombudsman Service*

1 March 2007

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The Financial Ombudsman Service was established by law – a law which requires its ombudsmen to be appointed on terms that secure its independence. Its ombudsmen resolve impartially disputes between consumers and financial-services providers.

The Equitable Members Action Group (EMAG) is a pressure group representing dissatisfied investors in Equitable Life. It employed Lord Neill to provide an opinion and oral evidence to the Committee. The ombudsman service rejects the main points which Lord Neill made in his opinion and oral evidence.

Lord Neill's conclusions were based on his examination of papers produced – and opinions expressed – by a self-selected group of 30 dissatisfied investors. They comprise fewer than 0.5% of the Equitable Life investors who took their cases to the ombudsman service.

Lord Neill declined to receive information from the ombudsman service, or to allow the ombudsman to comment on the “facts” in his report before it was published – a curious approach from someone who claims to support fair process.

The Financial Ombudsman Service was not provided with a copy of the opinion until after Lord Neill had given evidence to the Committee. The opinion's main conclusions are based on incorrect assumptions, which the ombudsman service could have corrected if Lord Neill had allowed it to comment. For example:

- In paragraph 85 Lord Neill says, “it is likely that [the chief ombudsman] will have been supplied with a copy of the [Penrose] Report shortly after it came into the hands of the Treasury on 23 December 2003”. In fact, neither the chief ombudsman nor anyone else at the Financial Ombudsman Service saw the Penrose Report until March 2004.
- In paragraph 98(7) Lord Neill says that the chief ombudsman failed to make available to complainants the FSA's “Maxwellisation submission to Lord Penrose”, which Lord Neill assumed the chief ombudsman had received. In fact, neither the chief ombudsman nor anyone else at the Financial Ombudsman Service has ever seen this document.

Lord Neill's criticisms of the fairness of the ombudsman's process are based on false assumptions such as these – assumptions which, most unfairly, he gave the ombudsman service no opportunity of commenting on or correcting.

Lord Neill's opinion suggests that the Financial Ombudsman Service is not truly independent – and has somehow colluded with Equitable Life, the FSA and HM Treasury, to treat those complaining about Equitable Life unfairly. Lord Neill has produced no evidence for this, because there is none – as the allegation is untrue. Nor has the ombudsman service – let

alone the chief ombudsman – been “leant on” as he alleges. Equitable Life made strong submissions to the chief ombudsman, the majority of which he rejected. Neither the FSA nor HM Treasury sought to influence the chief ombudsman’s decisions.

Lord Neill made insinuations because there is a memorandum of understanding between the Financial Ombudsman Service and the FSA. This is a public document – available on the websites of both organisations – dealing with reasonable organisational issues between two bodies operating in adjacent territory.

Neither the FSA, HM Treasury nor even the board of the Financial Ombudsman Service has any control over an ombudsman’s decisions in handling cases. As previously indicated, the law requires the ombudsmen to be appointed on terms that secure their independence.

If the ombudsman process had been as flawed as Lord Neill and EMAG have wrongly suggested, that would have been grounds for EMAG to take judicial review proceedings and ask the High Court to overturn the ombudsman’s decisions.

Significantly, EMAG did not do so. That was not because EMAG was unfamiliar with this process. Indeed, EMAG initiated judicial review proceedings against the Parliamentary Ombudsman in 2004.

The Financial Ombudsman Service has nothing to hide concerning its handling of Equitable Life cases, and has aimed to provide the Committee with every assistance it can (subject to its duty of confidentiality to the parties in individual cases).

The ombudsman service has previously supplied both oral and written evidence to the Committee – and stands ready to assist the Committee with any additional points on which it may require clarification.