HM TREASURY

The Equitable Life Payment Scheme design

May 2011

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Foreword

In May 2010 the Government pledged to "implement the Parliamentary and Health Ombudsman's recommendation to make fair and transparent payments to Equitable Life policy holders, through an independent payment scheme, for their relative loss as a consequence of regulatory failure." Fairness and transparency and, additionally, simplicity have continued to be the driving principles behind the Government's approach to delivering on this pledge. Because of the years of waiting and frustration that more than one million policyholders have endured, the Government has moved swiftly to ensure that the Scheme is in place as quickly as possible, so that those who have suffered losses as a result of maladministration are finally able to receive redress.

At an early stage, the Government announced that there would be no means-testing as part of this Scheme, and that the estates of the deceased would be eligible for payment. When the Government subsequently published Sir John Chadwick's report, it recognised the contentious nature of his advice and thought it right to open it up to public debate. We listened to and took on board the views of interested parties.

At the Spending Review, the Government announced that in the region of £1.5 billion would be made available to the Scheme. While this figure was not as high as some might have hoped, the Government had to take into account the impact on the public purse – a view that the Parliamentary Ombudsman expressed in her report. We had to balance the needs of affected policyholders against those of taxpayers and users of public services more generally at a time when the Government has to tackle the largest peacetime budget deficit in the UK's history.

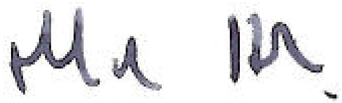
Despite the challenging fiscal situation, the Government found a way to put forward a proposal that is fair to both policyholders and taxpayers.

The Scheme design reflects the Government's core principles, and also the relevant analysis of Sir John Chadwick and his actuaries, Towers Watson, and the advice of the Independent Commission on Equitable Life Payments. It is essential that policyholders can understand how payments have been calculated and the process by which they will receive any payments that they are due.

In keeping with the Government's commitment to transparency, this document sets out, in detail, the Scheme design for policyholders, Members of Parliament and other interested parties, including:

- the Scheme rules;
- the Scheme administration and timetable;
- the methodology behind loss and payment calculations;
- the Scheme's approach to making payments;
- the details of the queries and complaints procedure; and
- the plans for communicating with policyholders.

Having spent a great deal of time in dialogue with interested parties, the Government is now approaching the final stages of preparation before the Scheme begins to make payments to policyholders. The Government's ambition is for these payments to begin before the end of June.



Mark Hoban

Financial Secretary to the Treasury

1 Introduction

1.1 The Equitable Life Payment Scheme ('the Scheme') is due to be launched before the end of June 2011. This document sets out the origins and design of the Scheme:

- **Chapter 2** provides a brief summary of the Scheme, including key information for policyholders;
- the **main body** (Chapters 3 to 12) provides an overview of the Scheme design, including an outline of the rules for calculating losses and payments, and the process for communicating with and making payments to policyholders; and
- **Annex A** provides technical information on the Scheme design, including detail of the rules and assumptions used in the calculation of losses and payment amounts. It should be read as the definitive technical description of the Scheme design and used by those wanting to understand the technical detail of the Scheme. It contains a glossary of terms used throughout the document.

A Note on Terminology

1.2 The term 'policyholder' is used throughout this document to ensure that it is understandable. The term refers to the named individual(s) or trustee(s) associated with each policy. For simplicity's sake, in using this terminology in much of the main body of the document, the assumption is made that the policyholder is the recipient of any payments due under the Scheme. This is the case for most policies. However, it should be noted that there are some exceptions to this rule, and that in some cases the Scheme will make payments to persons (payees) who are not policyholders (see Chapter 5 for further details).

2 A Brief Summary of the Equitable Life Payment Scheme

2.1 This chapter contains a summary of the Scheme. The Scheme rules and other details have been simplified to highlight the main features and key information for policyholders and other readers. Further detail of the Scheme is set out in the main body of the document (Chapters 3 to 12) and in the technical annex (Annex A).

The Equitable Life Payment Scheme

2.2 The Equitable Life Payment Scheme is a scheme set up by the Government for those persons who were adversely affected by the maladministration in the regulation of Equitable Life. In October 2010, the Government accepted that Equitable Life policyholders had suffered Relative Losses totalling £4.3 billion.[1] Taking into account other pressures on the public purse, it announced an allocation of funding in the region of £1.5 billion for payments to these policyholders.

2.3 The Government has designed the Scheme around the principles of fairness, transparency and simplicity. The purpose of this document is to set out how the Scheme will work in practice.

2.4 The design of the Scheme has drawn on advice and representations from interested parties including:

- the Parliamentary and Health Service Ombudsman's report *Equitable Life: a decade of regulatory failure*,[2] which recommended that the Government establish a payment scheme;
- Towers Watson's actuarial advice and calculation of Relative Losses;[3]
- the 2010 Spending Review representations and evidence from interested parties; and
- the advice from the Independent Commission on Equitable Life Payments[4] ('the Independent Commission') on principles for allocating the available funding between policyholders, and whether any should be paid as a priority.

2.5 The Treasury has asked National Savings and Investments (NS&I) to deliver the Scheme on its behalf.

2.6 To ensure that the Scheme is robust in its ability to make the required volumes of payments and to communicate with policyholders, it will build up operational capacity from June onwards.

2.7 The Scheme is expected to begin making payments before the end of June 2011. Policyholders need take no action at this stage. The Scheme will contact policyholders directly, so there is no need for them to contact the Scheme.

[1] Towers Watson has since revised this figure to £4.1 billion. This was driven by continued improvements made to the calculations, refinements of individual policies' Relative Loss calculations, addressing data issues and on-going review of individuals' Relative Losses. See the letter from Towers Watson to the Financial Secretary to the Treasury (18 January 2011) in Independent Commission for Life Payments Scheme: achieving a fair allocation and order of payments (ICELP), 21 January 2011, pp.79-81.

[2] Equitable Life: a decade of regulatory failure, Parliamentary and Health Service Ombudsman, July 2008.

[3] Actuarial Advice to Sir John Chadwick, Towers Watson, 14 July 2010; and Actuarial Advice to the Independent Commission on Equitable Life Payments, Towers Watson in ICELP, 21 January 2011.

[4] ICELP, 21 January 2011.

Who is eligible for the Scheme?

2.8 There are three types of Equitable Life policy that are eligible for the Scheme. To be considered eligible for the Scheme, a policyholder must hold, or have held, one (or more) of these policies:

1. *Accumulating With-Profits (AWP).* There are two broad categories of AWP policy:
   - *Individual* policies – purchased by, and held in the name of, an individual (or joint) policyholder; and
   - *Group/Group scheme* policies – predominantly occupational pension schemes purchased by trustees on behalf of scheme members.
2. *Conventional With-Profits (CWP).*
3. *With-Profits Annuity (WPA).*

2.9 To understand which Equitable Life products falls into one of these policy categories, please see the full list of products on page 22.

2.10 That policy must:

- in the case of CWP and WPA policies, have been purchased between 1 September 1992 and 31 December 2000 inclusive; and
- in the case of AWP (both individual and Group scheme) policies, either have started between 1 September 1992 and 31 December 2000 inclusive, or had a premium payment made into it between 1 January 1993 and 31 December 2000.[5]

2.11 For a **policyholder to be considered 'eligible' for the Scheme**, they must have invested in an AWP, CWP or WPA policy between these dates.

2.12 **To be considered for payment**, the policyholder must hold (or have held) at least one eligible policy that has made a 'Relative Loss'.

2.13 In essence, Relative Loss is the difference between the actual returns received, or expected to be received, from Equitable Life and the assumed returns that the policyholder would have received if they had invested the same amount in a similar product in a comparable company.[6] This means that:

- if the value of the Equitable Life policy is less than it would have been at a comparable company, the policy would be deemed to have made a *Relative Loss*; and
- if the value of the Equitable Life policy is *greater* than it would have been at a comparable company, the policy would be deemed to have made a *Relative Gain.*

2.14 Policies could have made a Relative Loss or a Relative Gain, depending on how they performed compared to similar products at comparable companies. It is only those policies that have made a Relative Loss that may lead to a payment. Where a policyholder has more than one policy, any gains will be offset against any losses wherever it is fair and practical to do so.[7] Where a policyholder has an individual policy and is a member of a Group policy, this is not feasible. In these instances the individual policy and Group policy will be treated separately for the purpose of the Scheme.

[5] See Chapter 5 for further information on eligible policies.

[6] See Chapter 6 for the full definition of Relative Loss, and how it is calculated.

[7] Exceptions are set out in Chapter 7.

When can I expect to hear from the Scheme?

Individual policyholders

2.15 In accordance with the advice the Government received from the Independent Commission on Equitable Life Payments, the Scheme aims to:

- **commence payments to WPA policyholders[8] before June 2012**;
- in terms of order of payment to AWP and CWP policyholders, **prioritise the oldest policyholders** for earlier payment; and
- **prioritise payments to estates of deceased policyholders**, recognising that contact has to be made with administrators and executors once they have been traced, which could take time.

2.16 The Scheme will aim to contact **all eligible individual policyholders** before June 2012, regardless of whether they will receive a payment. To be eligible for the Scheme, policyholders must meet the criteria set out on page 8. Information provided to policyholders will include a statement explaining the value of any payment and, if applicable, details on when they can expect to receive it.

2.17 The Scheme will make contact with eligible policyholders using contact information supplied by Equitable Life and Prudential (for policyholders who had their policy transferred to Prudential). A data tracing service will be used to check and verify these details.

2.18 This means that:

- **for those receiving a payment before June 2012**, this payment will be sent soon after the letter and statement;
- **for those receiving a payment in year two or three of the Scheme (i.e. June 2012 onwards)**, the Scheme will write to these policyholders before June 2012, explaining when they can expect to receive their payment and its value. The payment itself will follow;
- **policyholders who are not receiving a payment,** either because they did not make a Relative Loss or because they made one that falls below the minimum payment level,[9] will also receive a letter and statement before June 2012 explaining the calculation; and
- other policyholders who may have had a policy with Equitable Life but are not eligible will not receive any direct communication.

Group policyholders

2.19 In principle, Group policyholders who are to receive a payment will be treated the same as holders of individual policies. However, there are additional complexities in retrieving contact information for members of Group schemes, which will take time to resolve. Therefore, members of Group schemes may not be contacted until after June 2012. For Group scheme members who are not due a payment, the Scheme will inform the policy trustee and leave it to the trustee's discretion as to how it will inform its members.

[8] Where appropriate, WPA policyholders are also referred to as 'annuitants' in this document.

[9] The minimum payment level is set at £10, as recommended by the Independent Commission. See ICELP, 21 January 2011, .p7.

Exceptional cases

2.20 There may be exceptional cases where it is not possible to adhere to the processes or timelines set out above. This may happen, for example, if the policyholder is deceased (in which case the Scheme will seek to trace and make payment to the executor or administrator of the policyholder's estate as a matter of priority), or if there is incorrect information in the data provided to the Scheme by Equitable Life and Prudential. The Scheme will make every reasonable effort to avoid unnecessary delays in making payments.

How much will my payment be?

2.21 If the policyholder has made a Relative Loss, there are three factors that will determine the value of the payment received under the Scheme:[10]

1. What type of policy was purchased:
   - **all Relative Losses on WPA policies will be covered in full**; and
   - **the funding set aside by the Government for AWP and CWP policies will be allocated on a *pro rata* basis**, in proportion to the size of policyholders' Relative Losses. This means AWP and CWP policyholders will receive 22.4 per cent of their Relative Losses.
2. Whether the loss is 'small': the Government accepts the Independent Commission's recommendation that a £10 *de minimis* level should be applied beneath which payments should not be made, to avoid disproportionate administration costs. The £10 *de minimis* will not apply to WPA policyholders.
3. Whether an individual has more than one policy and whether there have been losses or gains on each of them. Where it is fair and practicable to do so, the Scheme will:
   - **offset Relative Losses and Relative Gains across all policies** held by one policyholder. In other words reducing the Relative Loss accordingly if a policyholder has any other policies that have made a gain.[11]
   - **take a collective view of all policies held by a policyholder when applying the £10 *de minimis***. This means that policyholders with small losses spread across a number of policies will not be disadvantaged compared to those with an equivalent loss on a single policy.

2.22 The **two decision tree diagrams overleaf summarise the key steps** in determining whether a policy is eligible for the Scheme, and whether the policyholder will receive payment.

How will payments affect benefits, tax and tax credits entitlements?

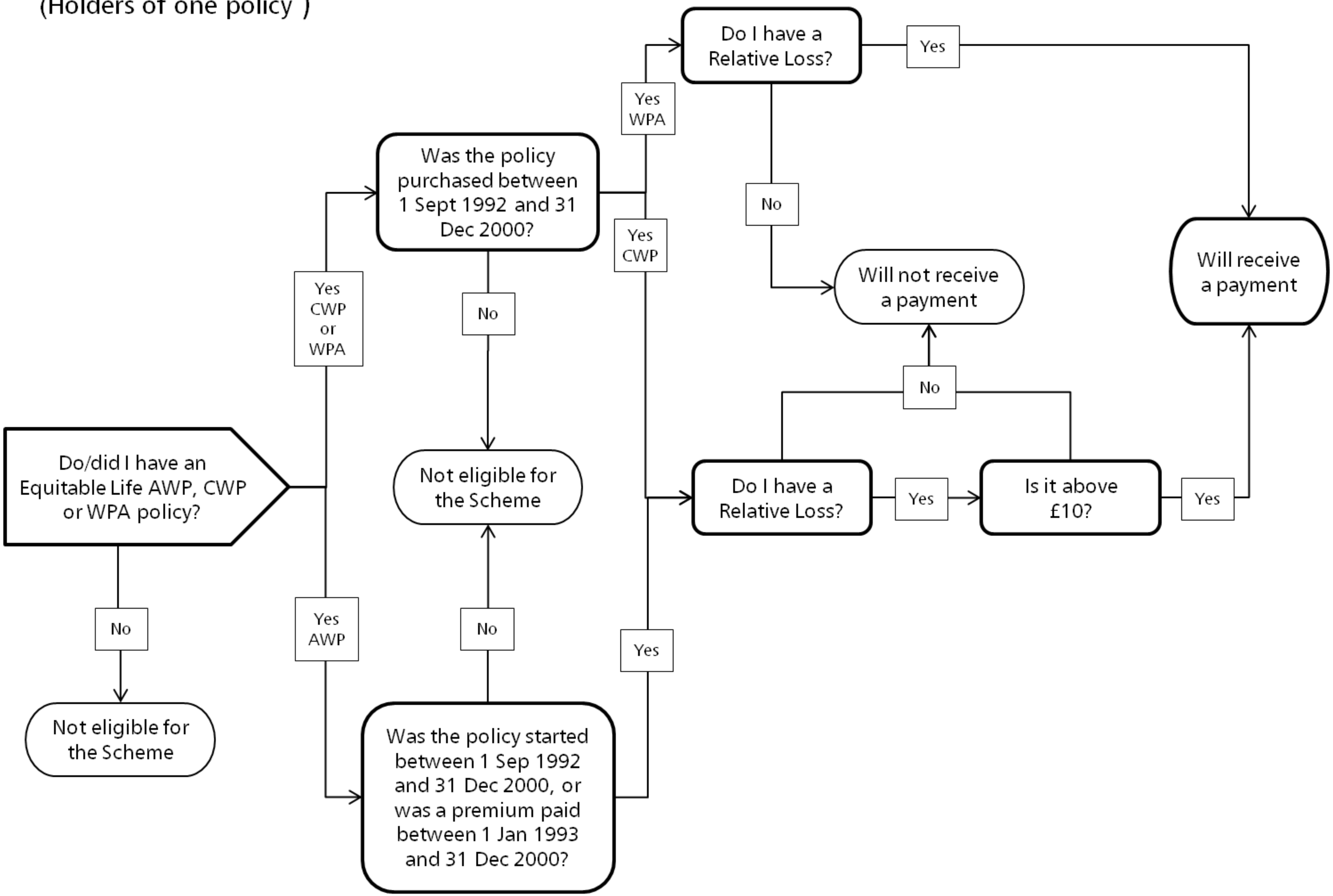
2.23 Authorised payments made through the Scheme will be free of UK Income Tax, Capital Gains Tax, or (in the case of companies) Corporation Tax.

2.24 All authorised payments made through the Scheme will not affect policyholders' eligibility for child or working tax credits. For the purposes of social security – including Pension Credit – and social care, the payments will be classed as income (for WPA payments) or as capital (for payments in relation to the other policy classes), and will affect eligibility for social security payments in the same way as any other change to their income or capital.

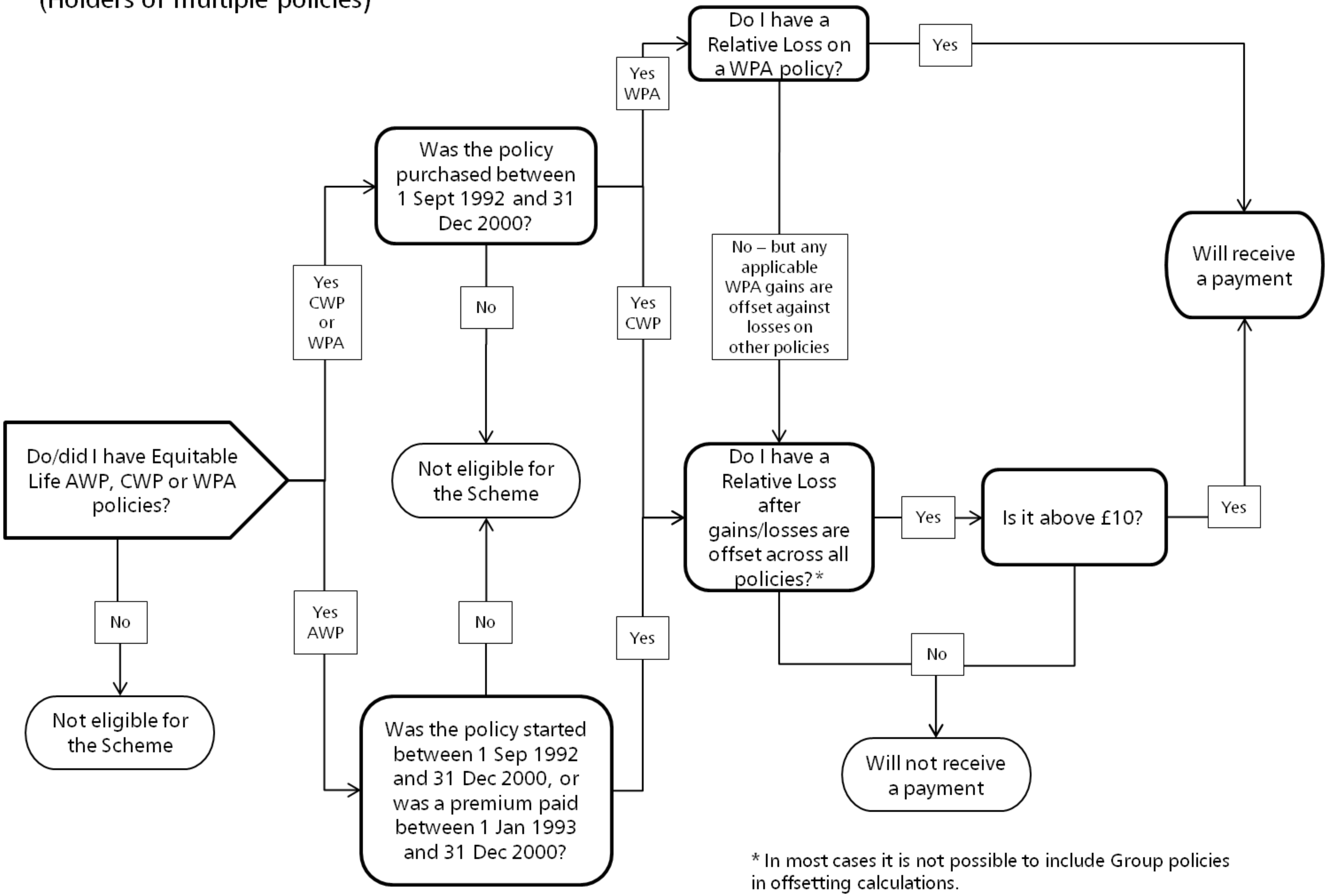
[10] The Scheme payment allocation reflects the Independent Commission's recommendations.

[11] There are some exceptions where offsetting will not be applied. See Chapter 7 for details.

Will I receive a payment from the Scheme?
(Holders of one policy)



Will I receive a payment from the Scheme? (Holders of multiple policies)



* In most cases it is not possible to include Group policies in offsetting calculations.

How will payment be made?

AWP and CWP policies

2.25 The Scheme will make a **single 'lump sum' payment** to holders of AWP and CWP policies. Policyholders who hold more than one AWP and/or CWP policy will receive a single payment for their combined losses on the policies where possible.

Group policies

2.26 Group policyholders will receive a **single 'lump sum' payment** where possible. This will be a separate payment from any AWP, CWP or WPA payments they may receive.

WPA policies

2.27 WPA policyholders will receive **annual payments** from the Scheme. The first payment, which in most cases will be made in the first 12 months of the Scheme, will be sent soon after a letter and a statement. Future annual payments will then be made automatically by electronic bank transfer. Policyholders will be asked to supply relevant bank account details.

2.28 It should be noted that there are a number of additional complex features associated with the payment of Relative Losses for WPA policies. The Scheme will therefore make payments as follows:

- payments for each policyholder's past losses – in other words Relative Losses suffered prior to 31 December 2009 – **will be spread evenly over the first five years of the Scheme**;
- payments for future losses – in other words Relative Losses that the policyholder continues to suffer (since 1 January 2010) as a result of annuity payments being lower than they would have been had the policyholder purchased a similar product with a comparator company – will begin in the first 12 months of the Scheme and continue to be made annually in arrears for the lifetime of the policy;[12]
- where a policyholder has died before the start of the Scheme, all of their past losses and any future losses they have accrued (i.e. those accrued between 1 January 2010 until date of death) will be paid as a single lump sum to their estate. If there is a surviving second annuitant on the policy, they will receive any past losses accrued between the date of death of the first annuitant and December 2009, as well as any subsequent future losses. These will be paid on an annual basis as above;
- on the death of a policyholder who is already in payment under the Scheme, any outstanding losses (past or future) will be paid in a single lump sum to their estate. If there is a surviving second annuitant on the policy due payments under the Scheme, their losses will be paid on an annual basis as above; and
- the Scheme will honour fixed term and guaranteed periods.

[12] It should be noted that where policyholders have both past Relative Gains and estimated future Relative Losses on their WPA policies, then the past gains will be offset against the future losses. In practice this will mean that payments to these policyholders will not commence until the cumulative future losses exceed the value of the past gains.

How do I find out more?

2.29 In addition to eligible policyholders receiving a letter and statement from the Scheme, a website and call centre will be available to respond to general queries.

2.30 The **website** (http://equitablelifepaymentscheme.independent.gov.uk) will contain information on eligibility and how the Scheme works. The Government recognises that for some policyholders a website will not be the easiest way to find information, therefore a dedicated call centre will also be available.

2.31 The **call centre's** trained staff will be able to resolve most queries, or answer general questions about the Scheme's design. However, for security reasons personal information relating to a specific policy(ies) or policyholder(s) cannot be given over the phone. Therefore, policyholders are strongly urged to wait until they receive their letter and statement from the Scheme before contacting the call centre.

2.32 If policyholders have queries or complaints, they can submit them to the Scheme in writing or via the call centre. It is not possible for policyholders to challenge the rules of the Scheme through the queries and complaints procedure. Policyholders may only challenge their calculation in cases where those rules have been incorrectly applied to their policy or policies. In these cases the policyholder will be asked to supply supporting documentation in connection with their claim.

What do I need to do next?

2.33 Policyholders do not need to take any action at this point. There is no requirement to register with the Scheme to be part of it. The Scheme will make contact with eligible policyholders as explained above, using information supplied by Equitable Life and Prudential (for policyholders who had their policies transferred to Prudential). A data tracing service will be used to check and verify these details. The Scheme will aim to locate and contact eligible policyholders directly, informing them of any payments due where applicable. The only exception is for Group scheme members who will not be receiving a payment. In these instances the Scheme will inform the Group trustee, who will decide how to inform its members.

2.34 If any policyholders have moved since they bought their policy and have provided their new address to Equitable Life, Prudential or their Group scheme, the Scheme should also have it.

3 Background

The Events at Equitable Life

3.1 Founded in 1762, Equitable Life is a mutual insurance company owned by its members. From 1957 to 1988 Equitable Life sold significant volumes of policies that included a guaranteed annuity rate (GAR). These policies provided a fixed rate at which policyholders were entitled to purchase an annuity on retirement.

3.2 In July 1988 Equitable Life stopped selling policies with GARs, although existing policies remained valid and further premiums could be made on the same terms.

3.3 By the end of 1995, immediate annuity rates had fallen below the level of the GARs and subsequently fell further. This made it more expensive for Equitable Life to pay out on its GAR policies. In response to this, Equitable Life adopted a differential terminal bonus policy which reduced the level of terminal bonus paid to policyholders exercising their GARs and thus equalised the benefits taken by GAR and non-GAR policyholders.

3.4 In January 1999, in response to complaints about the legitimacy of the differential terminal bonus policy, Equitable Life launched legal action against a representative GAR policyholder, Mr Hyman. This was in order to seek the Court's confirmation that the Society's approach was lawful. In September 1999, the High Court ruled that the Society was entitled to operate its differential terminal bonus policy. However, the case then went on to the Court of Appeal and eventually to the House of Lords. On 20 July 2000, the House of Lords ruled against the Society with the effect that Equitable Life could no longer apply its differential terminal bonus policy.

3.5 The House of Lords decision significantly increased Equitable Life's liabilities. In an attempt to secure a fresh injection of capital, Equitable Life put itself up for sale. When no buyer could be found, the Society closed its doors to new business on 8 December 2000.

3.6 In the following years, many policyholders who left the fund early were subjected to Market Value Adjustments (MVA), and cuts were also made to policy values.

3.7 In July 2004, the Parliamentary Ombudsman announced that she would carry out an investigation into the prudential regulation of Equitable Life in the decade leading up to the closure of the Society to new business. Following extensive investigation, she published her report *Equitable Life: a decade of regulatory failure* in July 2008.

3.8 In the report, the Parliamentary Ombudsman made 10 findings of maladministration and five findings of injustice. Her central recommendation was that the Government should establish and fund a compensation scheme with the aim of restoring those who suffered a Relative Loss to the position they would have been in if the maladministration had not occurred.[1] The Parliamentary Ombudsman also accepted that "it would be appropriate to consider the potential impact on the public purse of any payment of compensation."[2]

[1] Parliamentary and Health Service Ombudsman, July 2008, p.395.

[2] Ibid, p.392.

The Government's Response

3.9 The Government responded to the Parliamentary Ombudsman's report in January 2009. It agreed that there were some instances of maladministration by public bodies, but rejected a number of the Parliamentary Ombudsman's findings, including that compensation should be awarded. Recognising the injustice suffered by policyholders, the Government instead announced plans to set up a scheme for making ex-gratia payments to those policyholders who were most affected by the maladministration.

3.10 Sir John Chadwick, a former Lord Justice of Appeal, was asked in January 2009 to advise the Government on the design for an ex-gratia payment scheme.

3.11 Following the Parliamentary Ombudsman's report, the Equitable Members Action Group (EMAG) subsequently launched a judicial review into the Government's decision to reject some of the Parliamentary Ombudsman's findings and her recommendation for a compensation scheme. The Court handed down its judgment in October 2009, in which it rejected EMAG's legal challenge to the proposed ex-gratia scheme. However, it upheld the challenge to the Government's rejection of some of the Parliamentary Ombudsman's findings. The Government subsequently accepted those findings on which the challenge was upheld.

3.12 In May 2010, the Government pledged to "implement the Parliamentary and Health Ombudsman's recommendation to make fair and transparent payments to Equitable Life policy holders, through an independent payment scheme, for their relative loss as a consequence of regulatory failure".

3.13 Sir John's Chadwick's final report was published on 22 July 2010, along with a letter from his actuarial advisors, Towers Watson, setting out estimates of the loss figures produced at each stage of his methodology. The loss figures at these different stages were estimated to range from between £400-500 million to £4.0-4.8 billion.[3]

3.14 At the same time, the Government introduced the Equitable Life (Payments) Bill on 22 July 2010 to authorise the Treasury to incur expenditure in making payments to policyholders through the Scheme.

The Independent Commission on Equitable Life Payments

3.15 The Independent Commission on Equitable Life Payments was appointed in July 2010. The Commission consisted of Brian Pomeroy CBE (Chair), John Howard and John Tattersall. It was asked to:

- "recommend how best to fairly allocate funds provided for the Equitable Life Payment Scheme as part of the Autumn 2010 Spending Review to those persons found to have suffered Relative Losses as a result of accepted Government maladministration; and
- advise on any groups/classes of persons that should be paid as a priority."[4]

3.16 The Government asked the Independent Commission to consider the estates of deceased policyholders as part of the Scheme, and to avoid means testing as a method for deciding how payments should be allocated between policyholders. The Independent Commission was also asked to have regard to Sir John's findings on 'disproportionate impact' and the impact of its recommendations on the basis of gender, age, ethnicity and disability.

[3] Advice to the Government in relation to the proposed Equitable Life payment scheme, The Office of Sir John Chadwick, 22 July 2010; and the letter from Towers Watson to the Financial Secretary to the Treasury, 21 July 2010.

[4] See the original Independent Commission Terms of Reference (www.hm-treasury.gov.uk/d/equitablelife_commission_tor.pdf).

Funding available for the Scheme

3.17 On 20 October 2010, as part of the Spending Review, the Government announced that the Relative Losses suffered by policyholders amounted to £4.3 billion,[5] based on an acceptance of all the Parliamentary Ombudsman's findings of maladministration and injustice. Broadly speaking, this is the difference between what with-profits policyholders who invested from September 1992 received or would receive from their policies, and what they would have received if they had invested elsewhere.

3.18 Against a backdrop of significant pressures on the public purse, and taking into account the Parliamentary Ombudsman's view on public purse considerations, the Government announced that it would make in the region of £1.5 billion available for the Scheme. £1 billion of this would be available over the first three years of this Spending Review period.[6]

Consultation

3.19 The Government invited representations from interested parties in the run-up to the Spending Review announcement. Responses showed that WPA policyholders had been particularly heavily impacted because they were, in effect, trapped in policies often providing a declining income in their retirement. WPA policyholders are also likely to be older and less able to mitigate their losses. The Government therefore decided at the time of the Spending Review to:

- cover the full cost of Relative Losses to policyholders who purchased WPA policies between 1 September 1992 and 31 December 2000 inclusive.[7] This will be paid through ongoing regular payments; and
- allocate £1 billion as part of the Spending Review, to cover the first three years of payments to WPA policyholders and lump sum payments to all other policyholders with Relative Losses.

3.20 The Government amended the Independent Commission's Terms of Reference as follows:

- recommend how best to fairly allocate the £775 million of funding provided for the Equitable Life Payment Scheme in the first three years of the Spending Review to those persons found to have suffered Relative Losses as a result of accepted Government maladministration, excepting WPA policyholders and their estates; and
- advise on any groups/classes of persons that should be paid as a priority with regard to timing of payments, again excepting WPA policyholders and their estates.[8]

[5] Towers Watson has since revised this figure to £4.1 billion. This was driven by continued improvements made to the calculations, refinements of individual policies' Relative Loss calculations, addressing data issues and on-going review of individuals' Relative Losses. See the letter from Towers Watson to the Financial Secretary to the Treasury (18 January 2011) in ICELP, 21 January 2011, pp79-81.

[6] The estimated £1.5billion will be split as follows: £775 million will cover *all* payments to policyholders with AWP, Group and CWP policies. This is equivalent to 22.4 per cent of their Relative Losses. The remainder will cover payments to With-Profits Annuitants with Relative Losses, including contingency to cover uncertainties in the projections for their future losses.

[7] The current estimate at the time of the Spending Review announcement was £620 million. Towers Watson has since revised this figure to £615 million following continued improvements made to the calculations, refinements of individual policies' Relative Loss calculations, addressing data issues and on-going review of individuals' Relative Losses. For further information see the letter from Towers Watson to the Financial Secretary to the Treasury (18 January 2011) in ICELP, 21 January 2011, pp79-81.

[8] See ICELP, 21 January 2011, pp.65-67.

The Recommendations of the Independent Commission on Equitable Life Payments

3.21 On 26 January 2011, the Government published the Independent Commission's report. Its recommendations (which exclude WPA policies, as these were not in its remit) were: [9]

- a *pro rata* **allocation of the available quantum**, in proportion to the size of Relative Losses, principally on the grounds that no group of policyholders has been identified which in the Commission's view merited favourable treatment at the expense of other policyholders;
- a **single policyholder view, wherever practicable**, endorsing the inclusion in the Methodology of offsetting Relative Gains against Relative Losses where policyholders hold multiple policies. This would better direct funds towards those individuals that have suffered net Relative Losses across their Equitable Life portfolios;
- a ***de minimis*** **amount, in the region of £10, beneath which payments should not be mad**e. This reflected the fact that payments below this amount would be disproportionate to the administrative costs of making them while being, in the Commission's view, of negligible significance to those who do not receive them. The Commission recognised that the costs of administering payments to members of Group Schemes and to estates of deceased policyholders may justify a higher *de minimis*; and
- prioritisation of payments to the most elderly policyholders and to the estates of deceased policyholders.

3.22 The Government welcomed the Commission's report and accepted the principles it recommended.

[9] Ibid, p.8.

4 The Equitable Life Payment Scheme

The Scheme Outline

4.1 The driving principles behind the Scheme design set out in this document are fairness, transparency and simplicity. The Scheme is designed to meet the needs of policyholders first and foremost; it will seek to make the payments as quickly as is practical, with minimal requirement for input from policyholders.

4.2 The Scheme will be split into two separate strands:

- payments in relation to WPA policies: in most cases, these will be made as annual payments to policyholders who have suffered Relative Losses on their WPA policies; and
- one-off payments to holders of AWP, Group and CWP policies who are due to receive a payment, which will be staged over a three year period.[1]

4.3 The Treasury has selected National Savings and Investments (NS&I) to deliver the Scheme on its behalf. The Scheme will be run independently of the Treasury. As far as is possible, the Scheme will utilise existing NS&I infrastructure in order to minimise administration costs.

4.4 Contact details for policyholders have been passed on to the Scheme from Equitable Life and Prudential. The Scheme will endeavour to locate and contact policyholders directly. Policyholders who are eligible for the Scheme will receive a letter and a statement from the Scheme as appropriate; where they are due a payment, the amount will be set out clearly in the statement together with the expected timing of the payment.

4.5 The notable exception is for Group scheme members who are not due to receive a payment. In these instances the Scheme will inform the Group trustee who will then decide how to inform its members.

4.6 A website and call centre will also be available to respond to general queries, once the Scheme is live. The website will contain information on eligibility and how the Scheme works. The call centre's trained staff will be able to resolve general queries and answer general questions about the Scheme. However, for security reasons specific personal information relating to a payment cannot be given over the phone. Therefore, policyholders are strongly urged to wait until they hear from the Scheme before trying to contact the call centre. The call centre will be open from 8am to 8pm Monday to Friday (excluding Bank Holidays), and 8am to 12pm on Saturdays.

Scheme Commencement and Closure

Commencement

4.7 It is intended that the Scheme will start making payments before the end of June 2011.

[1] The estates of deceased policyholders (including WPAs) will also receive a one-off payment.

4.8 Most WPA policyholders can expect to receive their first payment by June 2012. Payments for WPA policyholders' past losses will be evenly spread over the first five years of the Scheme, and future losses will paid by the Scheme over the lifetime of the policyholder, or for the fixed or guaranteed term of the policy. This means that most WPA policyholders will receive annual payments up to 2016, and many of those with future losses will also receive payments in subsequent years.[2]

4.9 The Scheme intends to make all payments to AWP, Group and CWP policyholders – including estates – who are due to receive one within three years. The only exception will be those cases where there are extensive difficulties in identifying the payee (see Chapter 5) for a policy or in circumstances whereby the payment is subject to an ongoing query or Independent Review (see Chapter 11).

Closure

4.10 In order to appropriately manage delivery of the Scheme, once all reasonable endeavours have been made to trace and make payments to eligible policyholders, a date will be set beyond which a policyholder can no longer:

- make a claim for eligibility;
- raise a query;
- make a complaint;
- request a re-calculation; or
- request their case be reviewed by the Independent Review Panel.

4.11 Deadlines will be appropriately publicised in advance so that policyholders can have full opportunity to contact the Scheme and, where appropriate, enter the Independent Review process.

4.12 It is intended that the Scheme will remain open until eligible WPA policyholders have received their final payments. However, the Government will need to have regard to the administrative costs associated with keeping the Scheme open for an extended period. It will keep the matter under review, and may consider alternative arrangements for making outstanding payments in later years if it becomes appropriate to do so.

[2] As set out in Chapter 9, in most cases WPA past losses will be paid over a five year period, and future losses will commence in year one of the Scheme and be paid until the death of the policyholder (and other annuitants on the policy) or until the end of any guaranteed or fixed term periods.

5 Eligibility for the Scheme

5.1 Chapters 5, 6 and 7 set out information on:

- eligible policies and payees under the Scheme (Chapter 5);
- the methodology and assumptions used to calculate Relative Losses for eligible *policies* (Chapter 6); and
- the calculation of payments to *policyholders* who are to receive them (Chapter 7).

5.2 The Scheme rules and calculations, including the underpinning assumptions used, take into account the extensive analysis undertaken by Towers Watson (including in its Actuarial Advice to Sir John Chadwick),[1] responses received from interested parties before the Spending Review, and the recommendations of the Independent Commission.

5.3 Further detail on these calculations and assumptions is contained in Annex A.

Policies That Have Suffered Relative Loss

5.4 Holders of policies that have suffered Relative Loss are eligible for a payment calculation under the Scheme (loss and payment calculations are made in accordance with the principles and features set out in Chapters 5 to 7).

5.5 Relative Loss is the difference between the value of a notional policy which the policyholder might have held had they made an investment in a similar product in a comparator company's with-profits fund and the value of the actual Equitable Life policy. The calculation of Relative Loss is set out in more detail in Chapter 6.

5.6 This concept is based on the understanding that those who relied on regulatory returns that were subject to Government maladministration when choosing to invest in Equitable Life had lost the opportunity to make a fully informed decision. It follows that, had they had this opportunity, they might have invested elsewhere.

5.7 Having accepted all the Parliamentary Ombudsman's findings of maladministration, the Government has concluded that those who invested from September 1992 to the end of 2000 may have relied on regulatory returns affected by maladministration. Therefore anyone investing in an Equitable Life with-profits policy during this period may have suffered a Relative Loss. However, data limitations mean that certain investments made between September 1992 and December 1992 cannot be included in the Relative Loss calculation (approximations are required to estimate losses on certain policies where there are data issues. See Annex A for further details). In light of this, the following eligibility criteria apply to policies:

- Conventional With-Profits policies or With-Profits Annuity policies purchased between 1 September 1992 and 31 December 2000 inclusive[2] are eligible under the Scheme and may receive a payment provided they were subject to a Relative Loss; and

[1] Towers Watson, 14 July 2010.

[2] And that did not become a claim prior to 1 January 1993.

- Accumulating With-Profits policies (including Group policies) that either had a premium paid in between 1 January 1993 and 31 December 2000 inclusive, or started between 1 September 1992 and 31 December 2000 inclusive, [3] are eligible under the Scheme and may receive a payment provided they were subject to a Relative Loss.

5.8 Eligibility is not affected if policyholders who have suffered Relative Losses subsequently exited from Equitable Life. In practice this means that policyholders who owned a policy that incurred a Relative Loss will have the same eligibility regardless of whether they subsequently remained with, or left Equitable Life.

5.9 Table 5.A below sets out the products that are included in the Scheme.

Table 5.A: Equitable Life Products

Policy Class	Business Group
AWP	Bond
	Deferred Hancock Annuity
	Flexible Protection Plan (also includes the Maximum Investment Plan)
	Free-Standing AVC (also known as FSAVC)
	Group (also known as Group Money Purchase, Group AVC, Group Trustee Investment, Group Transfer Plan or Group Final Salary)
	Health (Critical Illness Plan and Major Medical Cash Plan)
	Individual Pension Plan
	Managed Pension (income drawdown) (also includes the Managed Annuity, which was the precursor to the Managed Pension issued by Equitable Life)
	Personal Investment Plan
	Personal Pension Plan (also includes Grouped Personal Pension plans)
	Retirement Annuity
	Regular Savings Plan
	School Fee Trust Plan
	Transfer Plan
	Wind Up (also known as Money Purchase Plan/Transfer Plan)
CWP	Accumulating Class Policy
	Deferred Annuity
	Endowment
	Flexible Savings Plan
	Whole of Life
WPA	WP Annuities

Source: Equitable Life

[3] And that did not become a claim prior to 1 January 1993.

Identifying the Payee

5.10 As set out above, the term 'policyholder' is widely used throughout this document to ensure that it is understandable and easy to read.

5.11 However, the policyholder will not always be the recipient of Scheme payments as, in a number of cases, the person who took out the policy or paid premiums in connection with it is not the person who has suffered Relative Loss.

5.12 The remainder of this chapter explains the rules that the Scheme will follow to identify the recipients of payments in these cases.

5.13 It should be noted that, where the payee on a policy has died, the default position is for his or her estate to become the payee[4] unless otherwise specified below.

Payments to AWP and CWP policyholders

5.14 For AWP and CWP policies, the payee is set according to the criteria first satisfied in the following list:

- where policies have been permanently assigned, the permanent assignee is the payee;
- where policies are held under trust, the trustee is the payee. If this payee has died, an alternative trustee becomes the payee;
- for FSAVC policies, the payee is the life assured on the policy;
- for School Fee Trust Plan policies, the payee is the contributor to the policy;
- for joint life policies where there are two lives assured, the payee is:
  1. while both lives assured are alive, the first named life on the policy;
  2. where one life assured has died, the surviving life assured; or
  3. where both lives assured have died, the estate of the most recently deceased.
- for all other AWP or CWP policies that have not become claims, the payee is the policyholder; and
- for all other AWP or CWP policies that have become claims, the payee is the person who was the policyholder at the date of the claim.

Payments to Group policyholders

5.15 For Group policies, the payee is:

- for Defined Benefit schemes, the trustees of the Group scheme;
- for Defined Contribution schemes where Equitable Life only has only one set of data and no records of the individual members in respect of the scheme, the trustees of the Group scheme;[5] and
- for other Defined Contribution schemes, the individual members of those Group schemes.

[4] In practice this means making payment to the executor or administrator of the estate.

[5] In these circumstances, the trustee will be acting as a paying agent and the authorised payment must be held separately from the actual pension fund.

Payments to WPA policyholders

5.16 For WPA policies, the payee is:

- for policies that have been assigned, the assignee;
- for single life WPA policies, the annuitant; and
- for joint life policies there may be more than one payee:

    1 for loss incurred on annuity payments made whilst the first annuitant is alive, the first annuitant is the payee. If the first annuitant has died, his or her estate becomes the payee;

    2 for loss incurred on annuity payments payable to the second annuitant made whilst the second annuitant is alive, and after the first annuitant had died but before the policy terminated, the second annuitant is the payee. If this payee has died, his or her estate becomes the payee; or

    3 for loss incurred on annuity payments made after both annuitants have died (i.e. if there was an outstanding guarantee or fixed term), the estate of the most recently deceased becomes the payee.

Court orders and other obligations on individuals

5.17 Payees may be under an obligation from a court order (for example as a result of bankruptcy or a pension sharing order following divorce) to share funds received from a policy in a particular manner, in which case the onus is on the payee to abide by the court order in relation to Scheme payments.

Policyholders the Scheme is unable to trace

5.18 The Scheme has set up a rigorous process to trace those policyholders who should receive a payment. However it is highly likely that some policyholders will remain untraceable. Where this occurs, the Scheme may use alternative methods such as its website or media campaigns to locate these policyholders.

6 Summary of Relative Loss Calculation Method

6.1 In order to be eligible for Relative Loss, a policy must have started or have had a premium paid into it according to the eligibility criteria set out in Chapter 5.

6.2 Relative Loss is the difference between the value of a notional policy which the policyholder might have held had they made an investment in a similar product in a comparator company's with-profits fund and the value of the actual Equitable Life policy.[1] Where this difference is positive, a Relative Loss has been made. Where this difference is negative a Relative Gain has been made.

6.3 This chapter provides an overview of the method and assumptions used in the calculation of Relative Loss. Full details are given in Annex A.

Loss Calculation Period

6.4 The Loss Calculation Period referred to in this chapter is defined as the period between 1 September 1992 and 31 December 2000, inclusive.

Relative Loss Calculation for AWP Policies

6.5 For an AWP policy, a Relative Loss is only calculated in respect of premiums which were paid into the policy within the Loss Calculation Period.

6.6 Premium data are unavailable prior to 31 December 1992[2] and so, for policies which commenced before 1 September 1992, premiums paid before 31 December 1992 are not included in the Relative Loss calculation.

6.7 For policies that commenced between 1 September 1992 and 31 December 1992 inclusive, the policy value at 31 December 1992 is assumed to be a premium upon which Relative Loss is calculated. This approach has been taken within the methodology as it can be reasonably concluded that all premiums which contributed to the policy value were paid after 1 September 1992 for these policies.

Calculation

6.8 The definition of AWP Relative Loss can be expressed as:

Relative Loss = Comparator payout – Equitable Life (actual) payout

6.9 The payouts in the expression above are the part of the policy proceeds in respect of those premiums which were paid within the Loss Calculation Period.

[1] The value of the Equitable Life policy and the value of the notional policy in the comparator company are calculated in respect of only those premiums to which the Scheme applies.

[2] For some individual and Group policies the premium data is only available at a later date. For these policies approximations have been made in order to calculate the Relative Loss. See Advice to the Government in relation to the proposed Equitable Life payment scheme, The Office of Sir John Chadwick, July 2010, pp.122-124.

Comparator payouts

6.10 The comparator consists of a basket of alternative with-profits companies which offered the appropriate mix of with-profits business over the period in question, in which investors may have instead invested, had they not invested in Equitable Life.

6.11 The individual comparator company payouts, which make up the comparator calculation, are not available at an individual policy level. An approximation to the comparator payout is derived from the unsmoothed investment returns of the comparator company's with-profits fund, with various adjustments applied. The adjustments include allowances for expenses, demutualisation enhancements, shareholder transfers and smoothing. Following these adjustments, the comparator payouts are then calibrated to the average of the payouts of the comparator companies shown in surveys in the Money Management magazine. This ensures that the smoothed comparator payout reflects the published payouts of the comparator companies.

Smoothing

6.12 The comparator companies' returns require an adjustment to reflect the smoothing which they would have applied to their investment returns before declaring bonuses.

The calibration to Money Management payouts

6.13 Calibration factors, which differ for pensions and life policies, and also by year of premium payment and termination, are applied to the comparator payouts (or the average of the comparator companies' payouts). The calibration ensures that the comparator payout is consistent with the published payout data for pensions and life policies respectively.

Relative Loss for maturities, deaths, surrenders and in-force policies

6.14 The payouts received from the comparator and Equitable Life will have differed depending on the way that policies were terminated. The approach to the calculation of the Relative Loss is therefore considered separately for:

- policies which have matured or policyholders who have died;
- policies which have been surrendered contractually;
- policies which have been surrendered non-contractually; and
- policies which were still in-force at 31 December 2009.

Policies which have matured or policyholders who have died

6.15 Equitable Life policies which matured or where policyholders have died will have received the maximum of their overall policy value and their underlying guarantee. The comparator companies would similarly have paid out the maximum of their overall policy value and their underlying guarantee, the amount of which is approximated by the comparator payout as described earlier. The Relative Loss will therefore be calculated as the difference between the comparator payout and the Equitable Life payout in respect of those premiums which were paid within the Loss Calculation Period.

Relative Loss = Comparator payout - Equitable Life (actual) payout

Policies which have been surrendered contractually

6.16 Some policy contracts allow the policy to be surrendered contractually, on specific dates, with no penalties applied. For these polices the Relative Loss will be calculated in the same way as for policies which have matured.

Policies which have been surrendered non-contractually

6.17 Equitable Life policies which have been surrendered non-contractually may have been subject to a Market Value Adjustment ('MVA'). This was intended to bring the payout into line with the policyholder's fair share of Equitable Life's assets at the time of exit (i.e. their unsmoothed asset share). In order to compare like with like, in these cases Relative Loss is calculated by reference to the policyholder's notional unsmoothed asset share in the comparator, by using the comparator's with-profits investment returns prior to any adjustment for smoothing or calibration. The Relative Loss, in respect of those premiums which were paid within the Loss Calculation Period, is then calculated as equivalent to:

Relative Loss = Comparator payout less any approximate deduction - Equitable Life (actual) payout

Policies still in-force at 31 December 2009

6.18 Relative Loss for policies which were still in-force at 31 December 2009 is calculated in the same way as for policies which have surrendered non-contractually. This assumes that the value of the underlying assets is paid out on this date. This approach removes any distortions which may arise due to discrepancies between Equitable Life and comparator smoothing techniques.

Interest

6.19 Losses and gains on policies which are terminated prior to 31 December 2009 are calculated at the date of termination, and are then accumulated at a fixed rate of interest of 4 per cent per annum compound, to derive the Relative Loss or Relative Gain at 31 December 2009.

Policies purchased in currencies other than sterling

6.20 For policies purchased in a foreign currency, Relative Losses and Relative Gains are calculated in the currency of purchase and then converted into sterling using the exchange rates applicable at 31 December 2009. Where a payment is due, the amount(s) so calculated will then be paid to the policyholder in either euros or US dollars, as appropriate, using the exchange rate at the date of payment.

The GAR Compromise Scheme

6.21 As part of the GAR Compromise Scheme, which policyholders voted in favour of, Equitable Life made uplifts to GAR and non-GAR policy values on 8 February 2002 of, on average, 17.5 per cent and 2.5 per cent respectively.[3] The Equitable Life policy values incorporate the effect of the GAR and non-GAR uplifts, whereas the comparator payouts do not have any such uplifts applied. The GAR Compromise Scheme is described in more detail in Towers Watson's Actuarial Advice to Sir John Chadwick,[4] and its treatment within the Relative Loss Methodology is described further in Towers Watson's advice to the Independent Commission.[5]

[3] See The Office of Sir John Chadwick, July 2010, Section 4.75.
[4] Towers Watson, 14 July 2010, Section 8.6.1.
[5] ICELP, 21 January 2011, Annex E.

Compensation schemes

6.22 Some Equitable Life policyholders received payments from compensation schemes that were unrelated to Government maladministration. Depending upon the compensation scheme, the compensation[6] may form part of the actual Equitable Life policy value. The broad approach taken within the Scheme is set out below.

6.23 Where the compensation payments are in respect of mis-selling and form an uplift to fund value, paid within the Loss Calculation Period, they are treated as a premium payment into the Equitable Life policy. They will, therefore, contribute towards any Relative Loss calculation. However, any payments with respect to mis-selling which were paid in cash are excluded from the loss calculation as they were not subject to maladministration.

6.24 Compensation payments made in respect of the GAR Compromise Scheme are categorised as deferred proceeds from the policy itself. These payments were made to policyholders who were disadvantaged relative to other policyholders who were either not subject to a differential terminal bonus policy or benefited from the GAR Compromise Scheme. These payments were made separately to the GAR Compromise Scheme and were not in respect of Government maladministration, so will serve to reduce Relative Losses commensurately (as they are not applied to the comparator).

6.25 For most other compensation schemes, where Equitable Life has made a payment to a policyholder to compensate for shortfalls in administration or errors in the calculation of the benefit, the compensation is included in the Equitable Life proceeds and will generally reduce the Relative Loss incurred on that policy (as they are not applied to the comparator).

6.26 Further details of the approaches taken within the Scheme for compensation schemes appear in Annex A.

Future losses

6.27 There is no allowance for future losses for AWP policies within the Relative Loss Methodology. This is because, for AWP policies, there is no contractual obligation on policyholders to continue paying premiums. This is in contrast to CWP policies, where future losses relate to certain premium payments policyholders are contracted to make after 31 December 2009; and to WPA policies, where future losses relate to annuity payments made after 31 December 2009.

Relative Loss Calculation for Group scheme Policies

6.28 Group scheme policies are AWP policies in structure. The Relative Loss calculation is therefore as already described for AWP policies. However there are some issues that are unique to Group scheme policies:

- in some Group schemes, there is only one record which covers the benefits for all members of the scheme, so Relative Loss is calculated at Group scheme level. In other Group schemes, Relative Loss is calculated at the individual member level within a single policy; and
- there are missing data prior to 1994; it has therefore been necessary to estimate the value of the premiums paid between 1992 and 1994, as described in paragraphs 6.46 to 6.49 below.

[6] In certain circumstances, where the compensation relates to a period greater than that covered by the Relative Loss calculations, a *pro rata* amount of the compensation may be reflected in the Relative Loss calculations.

Relative Loss Calculation for CWP Policies

6.29 Relative Loss for CWP policies is calculated using similar principles to AWP policies, but differences in product structure require modifications to the approach described above.

6.30 In order to be eligible for Relative Loss, a CWP policy must have both commenced and paid premiums within the Loss Calculation Period.

Calculation

6.31 The definition of CWP Relative Loss can be expressed as:

Relative Loss = Comparator payout – Equitable Life (actual) payout

6.32 For CWP policies, the Relative Loss may comprise past Loss and future Loss.

6.33 The past loss on a CWP policy is calculated in respect of all premiums paid into the policy in the Loss Calculation Period, together with, those paid after 31 December 2000 up to and including 31 December 2009. Due to data issues on policies which commenced prior to mid-1993, approximations are required to estimate losses on these policies. Any expected future premiums from 31 December 2009 to the earlier of the expected maturity date and 31 December 2019[7] are reflected within the future loss calculation.

6.34 For CWP policies which terminate prior to 31 December 2009, the Equitable Life (actual) payout is available from the Equitable Life database. For CWP policies which were still in-force at 31 December 2009 a surrender payout is estimated in order to calculate loss in respect of past premiums paid.

Comparator payouts

6.35 For CWP policies, a modified approach to that used for AWP policies is required to estimate the comparator payout due to the different structures between these policy classes. The payout is estimated by considering the difference in the Internal Rate of Return (IRR)[8] earned by the comparator and the actual Equitable Life policy by assuming the same premiums were invested into an AWP policy rather than a CWP policy. This difference represents the additional return that is assumed to be earned on the comparator's CWP policy.

Future losses

6.36 As CWP policyholders are contractually obliged to continue paying premiums, a future loss is calculated for any CWP policy in-force at 31 December 2009. The total Relative Loss for CWP policies which are still in-force at 31 December 2009 is the sum of their past loss and their future loss.

6.37 The Equitable Life estimated surrender value at 31 December 2009 and any expected future premiums are projected forward to the earlier of the expected maturity date and 31 December 2019, under assumed future investment returns for both Equitable Life and the comparator. The assumed future investment returns are based on assumptions for equity backing ratios[9] and asset returns. The future loss is calculated as:

Future Loss = Projected comparator payout – Projected Equitable Life payout

[7] As per the Relative Loss Methodology set out in ICELP, 21 January 2011, Appendix E (paragraph 37).

[8] The IRR of a series of cashflows is the discount rate that makes the net present value of that series of cashflows equal to zero. It represents the rate of return on the series of cashflows.

[9] The equity backing ratio is the proportion of the assets backing with-profits liabilities assumed to be invested in equities, property and similar assets.

6.38 The Equitable Life and comparator payouts are simply the projected Equitable Life and comparator fund values at the assumed future exit date. These are then discounted back to 31 December 2009.

Relative Loss Calculation for WPA Policies

6.39 The calculation of Relative Loss for WPAs is more complicated than for AWP products due to the structure of the policy, comprising the payment of a single premium to Equitable Life in return for a series of annuity payments from Equitable Life to the policyholder from commencement until their death or a fixed date, and depending upon the choices made by the policyholder when purchasing the policy. However, the same broad approach is followed. The WPA Relative Loss is calculated by comparing the annuity payments that would have been received, or are expected to be received, from a comparator policy for the same investment of premiums with the payments that were received, or would be expected to be received, from the Equitable Life policy.[10]

6.40 In order to be eligible for Relative Loss, a WPA policy must have commenced within the Loss Calculation Period. Relative Loss is only calculated in respect of payments made on or after 1 January 1993.[11]

Calculation and comparator payout

6.41 The definition of WPA Relative Loss can be expressed as:

Relative Loss = Comparator payout – Equitable Life (actual) payout

6.42 For WPA policies, the Relative Loss may comprise past loss and future loss.

Past losses

6.43 In respect of past loss, the Equitable Life (actual) payout in the expression above is in respect of those annuity payments which were paid (or estimated to be paid) between 1 January 1993 and 31 December 2009. The comparator in the expression above is calculated from the annuity payments that a small basket of similar with-profits companies would have paid on similar products. The comparator products were chosen from alternative companies offering WPA policies over the period in question, in which investors might have invested, had they not invested in Equitable Life.

Future losses

6.44 For WPA policies, the loss which might occur in the future also needs to be considered as policyholders are not able to surrender their policy.

6.45 In order to calculate future loss, assumptions about future bonus rates beyond 31 December 2009 are therefore required. For the future loss element of Relative Loss, the Equitable Life (actual) payouts and comparator payouts in the expression above are in respect of those estimated annuity payments which are assumed to be paid after 31 December 2009.

Relative Loss Calculation Where Data are Unreliable

6.46 For certain types of policies and for certain periods over which Relative Loss is calculated, the data provided by Equitable Life for the purposes of the Scheme are not reliable or not

[10] Equitable Life WPA policies were transferred to Prudential on 31 December 2007. Annuity payments under the original Equitable Life policy are made by Prudential after 31 December 2007.
[11] The Office of Sir John Chadwick, July 2010, Section 4.52.

available. For some of the policies that are affected by such issues, modifications have been made to the data, or certain alternative approaches have been developed to accommodate limitations within the data where possible, in order to perform the Relative Loss calculation.[12]

6.47 In particular, for CWP, AWP and Group schemes, there are a number of cases where there are incomplete or unreliable data, such as for the years prior to 1994 for Group scheme policies and for most overseas business. For such cases the available data shows a policy value at the end of the calendar year within which complete records of policy accounting movements begin. A revised policy value is then determined as at the earliest date in that year from which there are complete data, based on the actual bonus rates declared by Equitable Life. Where the policy commenced before 1 September 1992, the proportion of the policy value applicable to the period on or after 1 September 1992 is calculated. The loss calculations for that policy then start from the earliest date for which there are complete data, with that calculated policy value treated as a single premium paid on that date.

6.48 For WPA business, data are taken to be unreliable prior to 1993 for UK business and prior to 1998 for overseas business. For policies that commence before these dates, the annuity payments are derived using the actual bonus rates declared by Equitable Life.

6.49 There are a number of policies which require further investigation because of inconsistencies or omissions in the available data or because of unusual features. The Relative Loss or Gain for these policies will be determined as far as possible using methods consistent with the Scheme.

[12] The modifications and approaches made in these circumstances are detailed in Annex A.

7 Payment Value Calculation

AWP, Group and CWP Policies

7.1 At the 2010 Spending Review, the Government announced that £775 million would be made available for payments to AWP, Group and CWP policyholders, to be allocated between policyholders in accordance with the recommendations of the Independent Commission:

- a *pro rata* allocation (22.4 per cent) of the available quantum, in proportion to the size of Relative Losses;
- taking a single policyholder view, wherever practicable; and
- a *de minimis* amount, in the region of £10, beneath which payments should not be made.

WPA Policies

7.2 The Government announced at the Spending Review that it would cover the full Relative Losses on WPA policies.

Offsetting

7.3 The Government noted the Independent Commission's endorsement of the principle of offsetting, where practicable, Relative Gains against Relative Losses where policyholders hold multiple policies.[1] The Scheme will therefore include offsetting in payment calculations as set out below.

Offsetting within AWP and CWP policy classes

7.4 If a policyholder has multiple policies within the AWP and CWP classes, then gains and losses on these policies will be offset in their final Relative Loss calculation.

Offsetting within the WPA policy class

7.5 Where a policyholder has both past gains and estimated future losses on their WPA policies, then the past gains will be offset against these future losses. In practice this will mean that payments will not commence until the cumulative future losses exceed the value of the past gain (see Chapter 9 for further information on payments to WPA policyholders).

7.6 Gains made by one annuitant will not be offset against any losses accrued by a separate annuitant within a single policy.

[1] ICELP, 21 January 2011, pp.30-31.

Offsetting between WPA, and AWP and CWP policy classes

7.7 In accordance with the Government's decision to cover the full Relative Losses on WPA policies, and the Independent Commission's recommendation, offsetting will be applied in the following way between these classes:

- where a WPA policyholder has gains on their annuity or annuities, but no future losses, these gains will offset any losses suffered on any AWP or CWP policies held by the same policyholder; however
- any gains made by a policyholder on an AWP or CWP policy will not be offset against any WPA losses they have suffered (as losses on WPA policies are to be paid out in full).

Exceptions

7.8 There are, however, some cases where offsetting will not be possible or where its application would be unfair:

- in some cases the recipient of Scheme payment for one or more of the policies held by an individual is not the policyholder. In these cases it would be unfair to offset one individual's gains against another's losses; instead the payments to each payee will be calculated individually, with no offsetting between those payees; and
- due to the nature of the data on individual members of Group policies, it is not practicable to match members of Group schemes with any other individual policies they hold, or any benefits they are entitled to within a different Group scheme.

Small Losses

7.9 The Government accepts the Independent Commission's argument that a *de minimis* level should be applied to individual payments in line with the administrative cost of making them. Consequently, the Scheme will apply a £10 *de minimis* level to all payments in relation to AWP, Group and CWP policies. Where a Group scheme policy has separately identifiable members who are due a payment, the *de minimis* will apply at individual member level rather than at policy level.

7.10 However, as announced at the 2010 Spending Review, the Government will cover the full losses on WPA policies.

8 Prioritisation in the Order of Payments

8.1 The Independent Commission recommended, wherever it is possible and practicable to do so, the prioritisation of payments to:

- "the oldest policyholders, as they are least able to wait for payment and are least likely to be in a position to mitigate the effects of a delay; and
- the estates of deceased policyholders and, the estates of those who die, before receiving a payment, in the next three years."[1]

8.2 The Government has accepted the principles recommended by the Independent Commission in full, and will prioritise payments to the elderly where possible. It will endeavour to pay the oldest CWP and AWP individual policyholders in the first year of the Scheme.

Estates

8.3 The Scheme does not have comprehensive, up to date, information on which policyholders are deceased, nor does it have contact details for all estates. An in-depth tracing and data cleansing exercise will be required to obtain more accurate information. This exercise may take some time, particularly for estates that have already closed. However the Government accepts the Independent Commission's arguments that the process for making payments to estates should be expedited, and will begin this tracing exercise at the start of the Scheme. Payments to the estates of those policyholders who die during the lifetime of the Scheme, but before receipt of payment, will be prioritised where the Scheme is informed of the policyholder's death.

Group Policyholders

8.4 Due to the nature of contact data held on Group scheme policies, it will not be possible to prioritise payments in this way to older members of Group schemes, or to the estates of those members who have died.

WPA Policyholders

8.5 The Scheme will aim to make first payments for WPA losses within 12 months of the Scheme launch, with the exception of payments in relation to deceased policyholders (which may take longer to trace) or those who have accrued gains (see Chapter 9 for further information).

[1] ICELP, 21 January 2011, pp.8-9.

9 Scheme Approach and Delivery

9.1 The Scheme is designed to make payments to those who have suffered Relative Losses with minimal input required from them. In most cases payments will be made via a crossed warrant[1] in the first instance. For WPA policyholders who will receive multiple payments, subsequent payments will be made through electronic transfer.

9.2 This chapter sets out the Scheme approach and delivery mechanisms that will apply to holders of policies in different classes. In summary:

- it is expected that all payments to traceable AWP, Group and CWP policyholders will be made over the first three years of the Scheme; and
- payments to WPA policyholders for past losses will be spread over the first five years of the Scheme, while annual payments for future losses will commence in year one and continue until the death of the policyholder or the end of the fixed or guaranteed term if so defined in the policy. The Scheme will mirror policy structure in terms of payments to surviving annuitants on the death of the first annuitant for joint policies, or where there is already an annuity paid to the second life.

Contacting Policyholders

First contact – letters, statements and payments

9.3 The communications around the Scheme have been designed to be simple, fair and transparent to ensure policyholders can understand and have confidence in the application of the Scheme rules to their personal circumstances.

Individual policyholders

9.4 All individual policyholders who are eligible for the Scheme can expect to hear from it within 12 months (i.e. before June 2012). Policyholders will receive a letter and a statement which explains the value of any payment they are due and, if applicable, an indication of when they can expect to receive that payment. The letter will also contain information about contacting the scheme if they have any questions. This means that:

- **for those policyholders receiving a payment in year one** (i.e. before June 2012), a letter and statement will be sent, followed by a payment in year one;
- **for those policyholders receiving a payment in year two or three (i.e. June 2012 onwards)**, a letter and a statement will be sent in year one (i.e. before June 2012). The payment, and a statement if they have not previously received one, will follow in year two or three of the scheme;

[1] From the policyholder perspective a crossed warrant can, in effect, be treated like a cheque. The main difference between a warrant and a cheque is that a warrant is not signed by the issuer. Unlike a cheque, the recipient of the warrant has to sign it before they pay it into their bank account.

- **policyholders who are not receiving a payment,** either because they did not make a Relative Loss or because they made one that falls below the minimum payment level, will receive a letter and statement in year one; and
- **other policyholders who may have had a policy with Equitable Life, but are not eligible for the Scheme**, will not receive any form of communication.

9.5 For operational reasons the payments will be sent separately from the letter and statement.

Group policyholders

9.6 For policyholders who are members of a Group scheme, there are additional complexities in retrieving contact details, which will take time to resolve. Therefore, members of Group schemes may not be contacted until after June 2012. Group scheme members who are to receive a payment will be treated the same as holders of individual policies. For members who are not receiving a payment, the Scheme will inform the trustee and leave it to the trustee's discretion as to how it will inform these members.

Additional sources of information

9.7 The complexities of the Scheme mean that policyholders may have general queries about the information they have received in the post. Therefore, a website and call centre will be set up to address policyholders' questions.

9.8 The website contains information on eligibility, the application of the Scheme rules, and the queries and complaints process.

9.9 The call centre should be able to resolve the majority of policyholders' questions.

9.10 The website and call centre will be made operational before payments commence, so as to provide a central resource for policyholders containing the most up to date information. However, before payments commence, both the call centre and website will only be able to provide limited information.

9.11 The Scheme may also be supported by a small amount of targeted media activity. This may be used during the lifetime of the Scheme to efficiently communicate further messages to policyholders.

WPA Policies

Payment mechanism

9.12 Payments will be made annually for policies that have at least one surviving annuitant. First payments will be made within 12 months of the Scheme launch (i.e. by June 2012), subject to the policyholder being identified and traced. Thereafter payments will be made annually.

9.13 First payments will be made by crossed warrant. Any subsequent payments will be made by Bacs or equivalent electronic method.

Treatment of past and future losses

- Payments for each policyholder's past losses (i.e. those accrued up until 31 December 2009) will be evenly spread over a five year period.
- Future losses (i.e. those accrued from 1 January 2010) will be paid in regular instalments one year in arrears over the lifetime of the policyholder, with payments commencing in year one, i.e. the first future loss payment will accompany the first past loss payment. The exception to this is where there have been past or future gains which are to be offset against future losses.
- Where applicable, past and future losses will be paid as a combined sum, but the split will be shown to the policyholder in communications.
- Future losses accrued between 1 January 2010 and 31 December 2010 will form the basis of the first future loss payment. Subsequent years' future loss payments will be paid on calendar year in arrears.

Estates

- Estates of deceased policyholders (deceased prior to 31 December 2009, or after this date but before the Scheme launch if known by the Scheme) will receive a lump sum payment representing past losses accrued to date of death and any future loss accrued to date of death. This loss will be paid in year one of the Scheme, or at the earliest opportunity once it has successfully traced the estate.
- For single life policies, if the policyholder dies during the five year period in which payments for past loss are being made, the estate of the policyholder will then receive the remainder of any unpaid past loss and any remaining unpaid future loss, to date of death (or fixed guarantee term), as a lump sum.
- For joint life policies, when the first annuitant on the policy dies, the estate of the first annuitant will receive the remainder of any unpaid past loss and any remaining unpaid accrued future loss as a lump sum. If there is a surviving second annuitant for whom future losses then start to accrue, the payments for such losses will commence and be paid to this second annuitant one year in arrears. On the death of this second annuitant, any remaining unpaid future losses will be paid to the estate of that annuitant.

Exceptions

- For administrative reasons, the Scheme may deal with payments in relation to certain WPA policies with very small losses differently from the approach set out in this section.
- Late traced cases: if there are difficulties tracing a policyholder and this is not

rectified until after the end of the first year of the Scheme, then any payments that have been "missed" will be rolled up into the first payment when it is made.

- There are certain cases where a WPA policy is written with a guaranteed payment period or a fixed term payment period. In these cases, the payment of losses follows the structure of the policy. For a fixed term policy, this means that payment of future losses would be made annually until the end of the fixed term (or on death of the policyholder, the outstanding fixed term future losses would be paid as a lump sum to the estate, assuming there is no surviving second annuitant on the policy). Similarly, if a policyholder dies before the end of the guarantee period, outstanding future losses would be rolled up and paid to the estate, assuming there is no surviving second annuitant on the policy.

Letters to WPA Policyholders

9.14 In the first 12 months of the Scheme, WPA policyholders should receive one of the following letters:

- those who are to receive a payment will be sent a letter and statement, followed by a crossed warrant, for the amount payable in year one. They will then be sent a letter in each subsequent year confirming the amount and timing of payment due for that year; or
- those who are not receiving a payment will be sent a letter explaining why this is the case, and a statement.

9.15 There may be some instances where WPA policyholders had past or future gains which have been offset against future losses, meaning that they may be set to receive payment at some future date.

AWP and CWP Policies

9.16 Payments in respect of AWP and CWP policies will be pro rated to 22.4 per cent of Relative Loss, and subject to a £10 *de minimis* level beneath which payments will not be made.[2]

Payment mechanism

9.17 In all but exceptional cases, the Scheme would expect to make a single payment by crossed warrant within the first three years after its launch to holders of policies in these classes. Where possible, an individual who is due payments on multiple AWP or CWP policies will receive all of their payments in a single lump sum.

Letters to holders of individual AWP and CWP policies

9.18 In the first 12 months of the Scheme holders of AWP and CWP policies should receive one of the following:

- those who are to receive a payment within the first year of the Scheme (i.e. by June 2012) will be sent a letter and statement followed shortly by a payment;
- those who are to receive a payment in year two or three (i.e. after June 2012) will be sent a letter and statement within the first year. They will then be sent a second letter, their payment, and a statement if they have not previously received one in year two or three of the Scheme; or

[2] ICELP, 21 January 2011, p.8.

- those who are not receiving a payment will be sent a letter explaining why this is the case along with a statement.

Group Policies

9.19 Group policies have the same structure and properties as their individual AWP policy counterparts. The calculation of losses and payments are therefore consistent with AWP policies.

Contacting Group policyholders

9.20 The Equitable Life database of Group scheme members is insufficient to enable the Scheme to contact members directly in many cases. Therefore, the Scheme will liaise with trustees in order to obtain the most up to date data. As the process for paying Group policyholders is expected to require this additional administrative step (identifying and tracing the trustee in order to obtain members' contact data), they are unlikely to be contacted or receive their payment within the first 12 months of the Scheme.

9.21 The Scheme will take the following approach with regard to contacting and making payments to Group policyholders:

- those Group scheme members who are receiving a payment will in principle be treated the same as holders of individual policies. They will receive a letter from the Scheme, which will include a statement; and

- for those members who are not receiving a payment, the Group scheme trustee will be informed, but there will be no individual communication by the Scheme with the Group scheme members.

Payment mechanism

9.22 Broadly speaking, the approach for making payments to the Group policyholders will be the same as that used for other AWP and CWP policyholders, i.e. one payment (or one payment per member where there are separately identifiable members within a Group scheme) made as a single crossed warrant within three years. The Scheme will make payments to Group scheme members directly where possible, or where appropriate, to the Group scheme trustee.[3]

Overseas Policyholders and Policies Bought in a Foreign Currency

Communicating with overseas policyholders

9.23 While the majority of Equitable Life's business was written in English, the company also had a significant operation in Germany. Therefore, there are a number of policies that have been written in German. Where this is the case, the Scheme will write to policyholders in German. A translation service will also exist within the call centre.

9.24 Communications received in other languages will be translated into English and a response will be issued in English.

Payment mechanism for policies bought in foreign currencies

9.25 If a policyholder purchased their policy in a foreign currency, i.e. pre-euro currencies, euros or US dollars, payments will be made by electronic bank transfer as the recipient may not have access to banking facilities that can cash crossed warrants in sterling.

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[3] Payment will be made to the trustee rather than to members in the case of (i) Defined Benefit schemes, as it is the trustee rather than members who have suffered the loss; and (ii) single member schemes, where the trustee holds a single policy that represents the investment of multiple members.

9.26 For policyholders who purchased policies in a foreign currency, their Relative Loss has been calculated in the currency in which it was purchased and then converted into sterling using the exchange rates applicable at 31 December 2009. Where payment is due, the amount(s) so calculated will then be paid to the policyholder in either euros or US dollars as appropriate, using the exchange rate at the date of payment. It is intended that payments will be made using the delivery body's banking agreement and that any banking fee imposed by the overseas bank for receipt of such monies in this way will be borne by the policyholder.

9.27 There are a small number of policyholders with policies which are denominated in more than one currency, one of which is sterling. For these policyholders, the total payment amount due across all of their policies will be **calculated and paid in sterling** by crossed warrant.

Payments to Estates

Contacting estates

9.28 The estates of deceased policyholders will be paid in accordance with the Independent Commission's advice.[4] Executors and administrators of estates that are to receive a payment will therefore be traced and contacted as a matter of priority. In the majority of cases it is expected that this contact will enable the Scheme to make payment to the executor or administrator.

9.29 However, there may be some cases where it is not possible to follow this process. These will be resolved on a case-by-case basis. Where there are difficulties tracing estates initially, it may take longer to contact executors and administrators.

9.30 The Scheme will not seek to trace and contact estates of policyholders who are not due to receive a payment.

Payment mechanism

9.31 Payments for estate cases will be made by a single crossed warrant.

Exceptions

9.32 For policyholders who are to receive large payments, additional identity verification checks may be applied by the Scheme. These checks may include requiring the policyholder to provide additional confirmation of their identity and address prior to release of the crossed warrant.

9.33 In a small minority of other cases it will not be possible to adhere to the process and timetable set out above. This may happen, for example, if there is missing or incorrect information in data that need to be rectified. In these cases, policyholders may have to wait longer to receive letters and, possibly, payments. Additional processes may include seeking further information from the policyholder to enable the calculation of payment.

[4] See Chapter 8 for further details.

Taxation Treatment of Payments and Impact on Tax Credits, Social Security and Social Care

Tax

9.34 Authorised payments[5] made through the Scheme will be free of UK Income Tax, Capital Gains Tax, or (in the case of companies) Corporation Tax. More detail on how this will apply across the tax system, including inheritance tax and tax credits, is set out below.

Direct payments

9.35 All direct payments from the Scheme to identified payees as described in Chapter 5 are authorised payments under the Scheme, and will therefore be free of tax.

Payments to members of Group schemes via trustees

9.36 Scheme payments by Group scheme trustees to their members as described in paragraph 5.15 are also authorised payments under the Scheme, and so will be free of tax.

Payments from trusts (excepting Group schemes) to beneficiaries

9.37 Payments from trusts to beneficiaries of the trust will retain their tax-free status where the beneficiary is entitled as of right to receive the payment under the terms of the trust.

9.38 Payments made by the trustees in exercise of a power or discretion given to them by the trust deed are not authorised payments, as they do not directly flow from the receipt of the payment. They will therefore be subject to the usual tax treatment for such payments.

Further transfer of the authorised payments

9.39 Any other passing on of a Scheme payment will not be an authorised payment, and as such, will be subject to the usual tax treatment.

Inheritance Tax

9.40 The following rules will be applied to payments in respect of Inheritance Tax treatment:

- payments to estates of those who die before receipt of payment will not be subject to Inheritance Tax;
- payments to living policyholders will form part of their estate and will be subject to Inheritance Tax in the normal way;
- the value of trustees' rights to an anticipated payment will not be subject to Inheritance Tax with regard to the 10 year anniversary charge; and
- payments made to a trust will be subject to Inheritance Tax in the normal way.

Tax Credits

9.41 Receipt of authorised payments will not affect the recipient's eligibility for child or working tax credits.

[5] 'Authorised Payment' in this instance means a payment as authorised by the Equitable Life Payment Scheme. See the Equitable Life (Payments) Act 2010 (www.legislation.gov.uk).

9.42 Payments from trusts to their beneficiaries will not affect the beneficiary's eligibility for child or working tax credits where the beneficiary is entitled as of right to receive the payment under the terms of the trust.

Social Security and Social Care

9.43 For the purposes of social security – including Pension Credit – and social care, the payments will be classed as income (for WPA payments) or as capital (for payments in relation to the other policy classes), and will affect eligibility in the same way as any other change to their income or capital.

Incorrect Payments

9.44 The Scheme will follow the principles set out in Managing Public Money[6] in the event that incorrect payments are made, and will consider the retrieval of overpayments on a case-by-case basis.

[6] *Managing Public Money*, HM Treasury, October 2007, p.7 and pp.113-117.

10 Queries and Complaints

10.1 General queries should be made to the Scheme. A postal and email address will be made public once the Scheme is operational. Notification of a change in circumstances, such as a change of address, can be made to those addresses. All policyholders wishing to notify the Scheme of a change in circumstances will be asked to provide evidence in writing. For security purposes, notification cannot be made by email or over the telephone to the call centre.

10.2 The Scheme will be able to address some queries and complaints at the call centre, but it may request that the more complex ones be submitted in writing. If the customer is not content with the response received after making first contact, they will be guided through the Scheme's complaints escalation procedures to ensure that all avenues for resolution can be explored.

Data and Evidence Requirements

10.3 Provided the Scheme rules have been correctly applied to the individual's Relative Loss and payment calculations, there will not be opportunity to recalculate the payment amount. However, if the customer believes that incorrect personal data have been used for the calculation, they may be able to request a recalculation on provision of any required additional supporting evidence or data.

10.4 Copies of original documents may be required by the Scheme in a number of circumstances, for example in the event of:

- a request for eligibility or recalculation;
- a change of name or address;
- the death of one or more named individual on a policy; and
- implementation of a Power of Attorney.

10.5 Details on what supporting material is required will be clearly publicised and clearly communicated to policyholders at the appropriate time.

Unresolved Complaints and Escalation

10.6 It is envisaged that the escalation procedure within the Scheme should be able to resolve the majority of queries or complaints. If, however, no resolution is obtained between the policyholder and the Scheme, Chapter 11 explains the procedure for escalating complaints to the Independent Review Panel.

11 Independent Review

Grounds for Review

11.1 Policyholders will not be able to challenge the rules of the Scheme (as set out in this document) through its queries and complaints procedure, including those relating to:

- criteria for establishing the eligibility of policies for inclusion in the Relative Loss calculation;
- assumptions used in calculating each policyholder's Relative Loss;
- payment value calculation, including the quantum of funding allocated to the Scheme or any groups of policyholders within it;
- the Scheme approach, including payment mechanisms; and
- the timing or prioritisation of payments.

11.2 Policyholders will, however, be able to challenge how the Scheme rules have been applied to their particular circumstances. If these rules have been wrongly applied to a policyholder's circumstances, then, assuming they have been unable to resolve the matter within the Scheme queries and complaints procedure, their case may be eligible for referral to the Independent Review Panel. Legitimate grounds for Review include:

- if there is a dispute, within the parameters of the Scheme rules, as to the identification of the 'correct' recipient of payment;
- if the policyholder or payee believes they have successfully demonstrated that the base data used in the calculation are incorrect, but this is disputed by the Scheme;
- if the policyholder believes they can demonstrate that not all of their eligible policies (i.e. those which may affect their payment calculation) have been identified, but this is disputed by the Scheme;
- if a policyholder believes they can demonstrate that they meet the Scheme's requirements for receiving a payment, but have not received a communication; and
- if the policyholder believes that offsetting has been applied incorrectly in their case, but this is disputed by the Scheme.

The Independent Review Panel

11.3 The Independent Review Panel ('the Panel') will consist of a pool of suitably qualified individuals who will not have been previously involved in any decisions related to the Scheme.

11.4 It is expected that the size of the Panel will allow sufficient flexibility to handle varying volumes of casework. It will not be necessary for all members of the Panel to consider every case, and for many it will be appropriate for one member to consider a case alone. However, the Panel will keep a record of all decisions made by its members so as to ensure individuals are treated even-handedly.

11.5 The Panel is expected to be operational for a period of approximately three and a half years, by which time all traceable non-WPA policyholders should have received their payment where applicable. By this time WPA policyholders should also have received statements explaining the calculation of their losses, as well as their first three annual payments (if applicable). This timeframe will give full opportunity for cases to be put forward and, where grounds exist, to be reviewed by the Panel.

The Process

11.6 In order for policyholders to have their case reviewed by the Panel, they must have exhausted the Scheme's complaints escalation procedure. This will be set out on the Scheme's website. Most cases that go through the Scheme's resolution processes will be on matters of fact. As such, they should be resolvable within the Scheme. However, there may be exceptional cases that will require the Panel's consideration. Any case that is forwarded to the Panel without having gone through the Scheme's complaints escalation procedure will not be considered by the Panel.

11.7 Policyholders who have exhausted the Scheme's complaints escalation procedure will receive a letter informing them that this is the case. Included with this letter will be a form that should be completed in order to apply for a Review. A policyholder wishing to apply for Review should send a completed form to the Panel within three months of the date of the letter from the Scheme.

11.8 Once the Panel has received the form, all communications relating to the case will be made through its secretariat, which will aim to confirm receipt of the form within two weeks of the date it was sent. This confirmation will also include information on the next steps of the Review process, along with the envisaged timeline. The secretariat will be in contact with the Scheme and policyholder as appropriate.

11.9 The Panel will carry out any necessary investigation and come to a decision on cases it has been asked to Review as quickly as possible. As a guideline, it will aim to make its decisions within three months of receiving completed forms, although this may take longer for cases that are complex or where further evidence is required. In such cases, the secretariat will contact the policyholder in writing to inform them of the delay and the reason for it, and to request any further evidence that they may be required to provide.

11.10 Terms of Reference for the Panel will be published prior to the commencement of their work.

12 Scheme Management

Scheme Governance

12.1 The Scheme's delivery body will ultimately be accountable to the Treasury for delivering against its objectives and requirements. A formal management structure will be in place to provide overall direction to the Scheme, to address any risks or issues that may arise, and to oversee successful delivery.

12.2 The work of the Scheme will be overseen by a management board, which will include senior representation from the Treasury and the delivery body, functional experts and independent advisors.

12.3 The Scheme will also be subject to annual review. This will enable the Treasury and delivery body management to carry out a rigorous review of Scheme performance and trends, and to identify and implement any changes or improvements that may be necessary.

Tracking, Evaluation and Quality Assurance Procedures

12.4 Progress will be tracked and evaluated throughout the lifetime of the Scheme to ensure expectations set out in the Scheme design are met, and to ensure that contingency planning is incorporated. Accordingly, it is envisaged that a number of progress reports will be produced, including in relation to management of contracts, operations and risk.

Audit

12.5 As it is accountable to the Treasury, the Scheme will be subject to internal audit and National Audit Office (NAO) scrutiny along with other areas of Treasury business. The Scheme will act in accordance with the principles set out in Managing Public Money[1] as far as possible in meeting its objectives.

Scheme Closure Procedure

12.6 It will be necessary for arrangements to be made for closure of the Scheme. The Treasury will make details available at the appropriate time, establishing a closure process that accords with the law and best practice at the time. The process will include, as necessary, provision for making any final payments, finalising outstanding Review Panel decisions, and ensuring that all Scheme data and information are held securely for a period of time after its closure.

[1] *Managing Public Money*, HM Treasury, October 2007, p.7.