



Public Administration Select Committee

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Rt Hon Hilary Benn MP
Secretary of State
Department for Environment, Food and Rural Affairs
Nobel House
17 Smith Square
London SW1P 3JR

4 February 2010

Dear Hilary,

I am writing to ask you personally to take another look at the Parliamentary Ombudsman's report on the administration of the 2005 Single Payment Scheme (SPS), *Cold Comfort*, and to reconsider your Department's response to it.

We were deeply concerned by the evidence we heard last week from your Permanent Secretary, which seemed to show that the Department and the Ombudsman are effectively speaking at cross-purposes. In particular, we are not convinced that the Department's response shows a full understanding of the Ombudsman's report, of the nature of her role or of her approach to issues of this kind.

Our role is to consider reports from the Ombudsman, and we have experience both of the majority of cases, in which the Government accepts the Ombudsman's recommendations in full, and the minority in which it does not. The case we were considering last week was almost unprecedented, in that Defra has refused to implement the Ombudsman's recommendations for financial compensation, in a context where these recommendations are modest. Generally, where the Government hesitates to implement the Ombudsman's recommendations, this is because very large sums of public money are involved: for example, in the recent investigations relating to occupational pensions and Equitable Life, where billions of pounds were potentially at stake.

We were mystified before last week's session as to why it could be to the Government's advantage to resist the Ombudsman's findings in this case. Frankly, we are none the wiser now. The Ombudsman is recommending modest compensation in a small number of cases. There can be little or no risk of a snowball effect—as the Ombudsman told us, her work is subject to a statutory time bar, and she finds it hard to imagine the circumstances in which she would now agree to investigate any further cases relating to 2005–06.

The reasons Defra has provided explaining its position give the impression of a Department looking for arguments to dispute the Ombudsman's findings. These arguments at times seem to be based on a misunderstanding, and at other times seem to be predicated on taking an adversarial rather than a common-sense, compassionate approach to people who have undoubtedly suffered injustice as a result of the Department's administrative failings. The general arguments raised also do not seem to engage with the detail of the individual cases investigated by the Ombudsman.

The reason put forward most strongly by Defra for dismissing outright financial compensation for Mr W and Mr Y (the lead complainants), is that the Ombudsman has calculated this compensation "on the basis of the target date for 96.14% (and later 'bulk') of payments to be paid from March 2006". We have four comments on this argument which we think need to be taken into account.

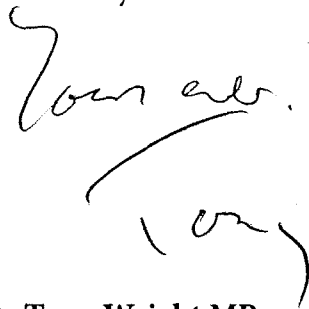
1. The most general point to make is that the Ombudsman has expressly denied that this is the basis on which she has assessed compensation. See paragraph 182 of her report.
2. We have seen no evidence to show that Defra has considered whether it was the specific series of administrative errors suffered by individual complainants that meant that they did not receive their payments by the end of March 2006, rather than the more general problems affecting the administration of the scheme.
3. We do not know if Defra has considered whether individual complainants were led to believe in their personal contacts with RPA (rather than from more general statements) that they would receive their payments by the end of March 2006.
4. There are a range of factors set out in the Ombudsman's report other than non-payment of SPS entitlements as grounds for financial compensation. Even if the Department is determined that there should be no compensation for SPS payments made before the regulatory deadline, it is not evident to us that Defra has considered these other factors, which include:
 - lost opportunities for the farmers to plan their affairs with adequate information to hand, including the financial impact on Mr W of not receiving his Single Payment Scheme entitlement statement by the regulatory deadline of 31 December 2005, for example in terms of access to credit, pressure from existing creditors and willingness to take on new debt.
 - the extent to which the mapping problems encountered by Mr Y reasonably led him to delay his Entry Level Stewardship claim.
 - costs to the complainants in pursuing their complaints, for example, in their own time, in telephone calls, in photocopying and in professional fees.

The Ombudsman's job is to be an independent, expert investigator where citizens complain that they have suffered injustice as a result of public bodies providing a poor service. The Government's response ought to be based on a presumption that the Ombudsman has got it

right, particularly as in this case where the Ombudsman has had no shortage of opportunity to consider the Government's views on her draft findings before she has finalised her report. It does not seem to us that Defra has been working from this standpoint.

Where the Government disagrees with the Ombudsman's approach to remedy, it should have strong, politically defensible reasons for doing so. We are not persuaded that such reasons exist in this case.

I hope that you will meet the Ombudsman as soon as possible to discuss her report and her Office's relations with your Department, and immediately afterwards reconsider the Department's response. If there has been no new announcement from the Department by the end of the month, we will need to consider asking you to explain the existing position to us in public early in March. I hope, however, that this will not be necessary.

A handwritten signature in black ink, appearing to read 'Tony Wright', with a large, sweeping flourish underneath.

Dr Tony Wright MP
Chairman

cc: Cabinet Secretary
Permanent Secretary, Defra
Parliamentary and Health Service Ombudsman
Chairman of House of Commons Environment, Food and Rural Affairs Committee