



THE PARLIAMENTARY
OMBUDSMAN

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From the Commissioner
Ann Abraham

Paul Braithwaite
42 Bartholomew Villas
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London NW5 2LL

5 December 2002

Dear Mr Braithwaite
EQUITABLE LIFE

Thank you for your letter of 4 November 2002, on behalf of the E7 policyholders' groups, welcoming me to my new responsibilities. As you suggested, the investigation my predecessor initiated into the prudential regulation of Equitable Life is indeed one of the most important issues with which I have to deal.

Your letter says that E7 believes that there 'is a pressing need for an immediate, independent, comprehensive study of ... possible maladministration by the regulators' of Equitable Life and that I should now undertake a 'focused study of possible maladministration through the 1990s (and to date), explicitly with a view to addressing blame and proposing Government compensation'.

I acknowledge the strength of that belief. Indeed, my Office has received many letters and complaints from policyholders and their MPs asking me to extend the scope of my investigation.

However I cannot do what you ask me to do, which is to conduct a comprehensive investigation into all the regulators in the Equitable Life affair. Let me explain why.

Life assurance companies such as Equitable Life were until recently subject to two separate regulatory regimes provided for by statute: prudential regulation and conduct-of-business regulation. The former is concerned essentially with the solvency of life assurance companies; the latter with the marketing and sale of a company's products, the nature and reward structure of policies, and the provision of related advice to current and potential investors.



Parliament has placed a number of restrictions on what I can and cannot investigate in respect of the issues arising from complaints such as those about the regulation of Equitable Life. In terms of complaints about the actions (or inaction) of such regulators, the law restricts my jurisdiction absolutely:

- I cannot investigate the **conduct-of-business regulation** of the Society at all: the selling of products, the rewards schemes for policies, and the provision of information by Equitable Life was regulated successively by the Securities and Investments Board, by the Life Assurance and Unit Trust Regulatory Organisation, the Personal Investment Authority, and by the Financial Services Authority, none of which has ever been in my jurisdiction;
- I can investigate the **prudential regulation** of the society **only** during the period before 2 December 2001; thereafter the regulation of insurance companies was undertaken by the Financial Services Authority on its own behalf and is entirely outside my jurisdiction.

Many of the complainants whose cases have been referred to my office criticise the regulation of the Society. However, those complaints in the main relate to how the conduct-of-business regulators performed their functions in relation to Equitable Life. I have no power to consider such complaints. Thus I cannot undertake the comprehensive investigation you request.

I also realise that policyholders' groups have expressed concern about the fact that my predecessor decided to limit our investigation to the period from 1 January 1999 to 8 December 2000, using the discretion given to him by the Parliamentary Commissioner Act 1967. As he explained at the time, this was because the Baird Report, which was commissioned by the Financial Services Authority in December 2000 and which covered the same period, had made reference to shortcomings in the way that the Financial Services Authority had discharged its duties as prudential regulator. The Treasury subsequently submitted the Baird Report, which was published in October 2001, to the Penrose Inquiry. As the Penrose Inquiry can consider and report on the actions of all the relevant parties in the whole time period in question, which I cannot do, my predecessor decided that the Inquiry was better placed than my office to provide the comprehensive explanation of events that all involved deserve. It has subsequently become clear that the Penrose Inquiry is prepared to make adverse findings about any of the relevant parties should the evidence justify this. In these circumstances, I can see no reason now to depart from my predecessor's decision.

I have written today to MPs to keep them informed of progress. That letter also deals with the points you raised and with some other matters. I enclose a copy of that letter, for your information.

We will endeavour to complete our investigation as soon as we can. However, in the circumstances, I cannot see how it will be possible to complete the investigation and issue our report before June 2003.

Yours sincerely



Ann Abraham
Parliamentary Commissioner for Administration

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