

THE EQUITABLE LIFE INQUIRY

Led by the Rt Hon Lord Penrose

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From the Secretary to the Inquiry

29 November 2002

MEETING WITH LORD PENROSE, 26 NOVEMBER 2002

Thank you for coming in to see Lord Penrose on Tuesday with Tim Balkwill, Alan Bevan, Nicholas Oglethorpe and Stewart Simpson. I am glad you found the meeting useful. As I said at the meeting, you are welcome to pass on the text of this letter or post it on your web site.

Further assistance to the Inquiry

2. We discussed the further assistance that your members may be able to provide to the Inquiry. We are considering whether to make an appeal to fill in specific gaps in our documentary evidence, but we want to leave this until we are in a position to target a few critical types of document.

3. In the meantime we would be grateful for the case studies we talked about; a few selected, representative illustrations from your members of the progressive financial impact on particular policyholders. These are not required ahead of the witness statement process.

Progress of the inquiry

4. I outlined where the Inquiry had reached. We have obtained and examined a large quantity of documentary evidence and undertaken a detailed analysis of the financial and business position of Equitable Life going back over several decades. We are now embarked on the vital process of taking statements from witnesses.

5. We recognise the frustration of policyholders at the apparent slow progress of the inquiry, but the work undertaken has been as essential as it has been painstaking. Given the timescales involved the documentary evidence is bound to form the core of the Inquiry, but it is important to engage with the significant players in order to confirm, clarify or correct our understanding and interpretation of the documents and the financial analysis.

6. We also understand the concern that has been expressed over the absence of public hearings. We explained the legal obstacles to disclosure of evidence in open session, as well as the impact they could have on the willingness of witnesses to co-operate. It is not impossible that a decision

to hold hearings in public would have resulted in there being no direct engagement with witnesses at all.

7. I said that we were not yet in a position to say definitively when the inquiry will report. It must be a matter of judgement for Lord Penrose as to when he is in a position to produce a complete and authoritative account. Lord Penrose emphasised his desire to make as rapid progress as possible consistent with fulfilling his demanding remit.

8. However, I indicated at the meeting that we would be giving a bit more of an indication on timescale shortly. Earlier today we posted an open letter on our website (www.equitablelife-inquiry.org/progress) that provides an update on our progress, an indication of the intended timescale for completion and an explanation of the factors that will affect that timescale. I attach the text.

Nature of the recommendations

9. We discussed the widespread confusion that seems to have arisen as to the scope of Lord Penrose's discretion to make findings. Lord Penrose explained that an inquisitorial inquiry such as this could not seek to determine liabilities between the parties. That would require him to replicate a full adversarial court process, which would extend the timescale for the Inquiry well into the future. He did not consider that that was either feasible or desirable. But this does not preclude him from making comments, adverse or otherwise, about any body or individual where justified by the evidence or indicating in general terms the interests that may have been adversely affected as a result.

10. Lord Penrose confirmed that if appropriate he would comment on compliance with EU law.

Yours sincerely

Hugh Burns
Secretary to the Inquiry