



Northern Ireland
Assembly

Committee for Finance and Personnel

OFFICIAL REPORT (Hansard)

Sale of National Asset Management Agency
assets in Northern Ireland: Evidence from
DFP Officials

23 July 2015

concerned that we do not risk prejudicing the criminal investigation that is being conducted by the National Crime Agency (NCA).

The Chairperson (Mr McKay): Can I just come in on that point? I appreciate the points that you make, but we have been at pains to point out that we will not seek to prejudice any future trial or court proceedings. At the same time, however, the Committee still has a duty to hold the Department to account. I feel that this area, and other areas, is clearly well away from any potential criminal proceedings, so I will be saying to all witnesses that we expect them to be upfront and honest to whatever degree they can be. Under section 44, we have powers to call papers, and if we feel that witnesses are deliberately putting boundaries in our way, we will use section 44 to call witnesses to answer too. So, I think it is important to outline the powers that the Committee has.

The Department has provided papers, and part of the reason for the delay in starting is that the papers arrived relatively late. I appreciate that there is a lot of documentation to go through. Do you have a view about whether the papers that have been provided are publicly disclosable? From what I can see, there are no papers here that would not be available under freedom of information and there is nothing of any great commercial sensitivity. So, I am keen to clarify by the end of this week what is disclosable from these papers, because we, as a Committee, are keen to be as transparent as possible, given the huge public interest in this case.

Mr Sterling: Yes. Generally, it is helpful to get clarification from you about the role of the Committee and the nature of the investigation. It is useful that we understand each other's respective positions.

In regard to the papers that we have given to you, it has been explained in the covering note that we would, at this stage, prefer that they be kept in confidence, but we are happy to engage with you outside this meeting about what may be released at some stage in the not-too-distant future.

The Chairperson (Mr McKay): So we could get to an agreement on that by the end of the week?

Mr Sterling: Yes, let us work on the basis that we will see what we will be content to be released before the end of the week.

Coming back to the question about the setting up of the Northern Ireland advisory committee, I think it is worth recognising the context that we faced in 2009, when NAMA was set up. By that stage, we had seen the construction sector in Northern Ireland contract by 20%, and it further contracted after that. I think that output in the construction sector eventually fell sort of 30% to 40% below its peak in 2007. We had significant concerns, obviously, about the fact that NAMA was taking control of such a significant proportion of assets in Northern Ireland. The Finance Minister at the time was keen that NAMA, in exercising its responsibilities, would recognise the particular circumstances that applied in Northern Ireland, and he pressed the Finance Minister, Minister Lenihan, to have somebody on the board of NAMA. That was resisted, and the agreed compromise was to set up the Northern Ireland advisory committee. It is a matter of public record who served on that Committee, and there were discussions between the Ministers about who might serve on it. I am not privy to the nature of all those discussions, but, again, it is a matter of record who ultimately served on the committee. It is worth noting that the decision about who sat on the advisory committee was a matter for the Finance Minister in the Irish Government and that the Northern Ireland advisory committee was not accountable to DFP or any other institution in Northern Ireland in any way.

The Chairperson (Mr McKay): I think that is clear. There is a letter from Finance Minister, Sammy Wilson, to Brian Lenihan dated November 2009. In it, he stated:

"On the matter of making our representations to NAMA, I have given some considerable thought to who best should represent [NI] interests. On reflection, I would advance Frank Cusnahan and — "

— the name is blocked out. The letter continues that these were:

"(two well-respected ex-bankers) and Richard Pengelly ... as three suitable appointees".

Richard Pengelly was the public spending director in DFP at that time.

I suppose that clarifies the point that at least one of the names put forward by the Minister at that time was agreed, ultimately by NAMA in the South. I do not know whether that name had the approval of Brian Lenihan at the time or whether he kept his distance from that process.

Was it solely the Minister's decision to put those names forward, or was there a process in the Department to identify people who would be appropriate for that role? Was any advice given to the Minister on who would be appropriate?

Mr Sterling: I am not aware whether advice was given at that stage. I have not had an opportunity to speak to the officials who would have been there at that time nor, indeed, any opportunity to speak to former Minister Wilson about it. I am not sure that I can say much more other than that those names were put forward, as identified in the correspondence you have before you.

The Chairperson (Mr McKay): Could we get clarification on that for next week?

Mr Sterling: Yes, absolutely. I would make the general point that there may be things that I do not answer this morning or that I am unable to answer, but I would not want the Committee to think that I am refusing to answer at any stage. If I cannot answer something this morning, I will endeavour to provide you with written confirmation later.

The Chairperson (Mr McKay): The two nominees, Brian Rowntree and Frank Cushnahan, were reappointed in 2012. Are there any papers relating to the reappointment process?

Mr Sterling: Not that I am aware of, and I do not know whether there was any consultation between NAMA, the Irish Government and the Department about the reappointments.

The Chairperson (Mr McKay): Should you not, at this point, have had sight of those papers if they exist? Given that this has been a running story for the past number of weeks, surely —

Mr Sterling: Sorry, just to be clear, there are no papers in relation to the reappointment process in 2012. I have not seen anything —

The Chairperson (Mr McKay): OK. So, there is nothing on record?

Mr Alan Ramsey (Department of Finance and Personnel): No, we are not aware of any papers in that regard.

Mr D Bradley: Morning, gentlemen. There was concern about the NAMA portfolio back at the beginning of this, let us call it, process. The concern was that there would be a fire sale of NAMA assets, which would impact detrimentally on the economy of Northern Ireland. Was that concern communicated to the Minister by officials in the Department, or was it a concern that the Minister raised with officials?

Mr Sterling: Again, I was not there at the time. I was in DETI, and I think that it is fair to say that concern about a possible fire sale would have been widely felt in the business community. Officials and Ministers would have picked up on that. I recall that, in DETI, with the economic development responsibilities that we had, we were looking at a very depressed construction sector and property prices that were continuing to fall. It was quite obvious that, if assets that, at the time, had a book value of £4.5 billion-odd were released on to the market at the same time, you did not need to be a great economist to work out that that could lead to further falls in property values and further deterioration in the construction sector. That was a widely held view at the time.

Mr D Bradley: I know that it was, but that is not the question I asked you. The question was this: was the issue was flagged up to the Minister by his officials, or was it flagged up to officials by the Minister?

Mr Sterling: I do not know, is the exact answer. What I would say is that it was a widely understood issue and there would have been comment about it at the time. I am quite sure that both the Minister and officials would have been aware that it was an issue at the time.

Mr D Bradley: Yes, but it has to have started somewhere. Anyway, you are not able to answer that question at the moment.

Can I ask you this: are there any briefing papers within the Department's archive or files to indicate an answer to the question that I asked you?

Mr Sterling: I will double-check the papers. As I say, I am fairly sure that it will be difficult to determine whether officials said, "Minister, you need to recognise the danger of a fire sale", or whether the Minister said to officials, "I am worried about the danger of a fire sale". It is one of those things. It was such an obvious risk that I do not think that we will be able to determine at this stage where it actually started. The reality is that it was a widely understood concern. Lots of interests in the business community would have been flagging it up to Ministers and officials at the time. I will do what I can to —

Mr D Bradley: Thank you for that.

The Northern Ireland advisory committee had two external members: Mr Rowntree and Mr Cushnahan. Did I understand you correctly when you said that DFP had no role in appointing either of those members?

Mr Sterling: No. NAMA and the advisory committee were both institutions of the Irish Government, and it was the Irish Government and NAMA that oversaw appointments to both organisations. DFP had no particular role other than in making representations, as you will have noted, to Minister Lenihan at the time.

Mr D Bradley: OK. I read in some of the papers that you presented to us that there were discussions between Minister Wilson and Mr Lenihan about giving Northern Ireland a voice on the NAMA board. Minister Lenihan was not in favour of that, and by way of attempting to go some way towards responding to that request, the advisory committee was set up. Is that correct?

Mr Sterling: Yes.

Mr D Bradley: The advisory committee was set up at the request of the Minister of Finance here and his Department. Two people were appointed to it as external members, and you are saying that the Irish Government did not ask DFP or the Minister for any views on the potential appointees.

Mr Sterling: Sorry, are you talking about the time of initial appointment or the time of reappointment?

Mr D Bradley: I am talking about the time of initial appointment.

Mr Sterling: There were discussions between the two Ministers about all this. As I say, I have not had an opportunity to speak to former Minister Wilson about the nature of those discussions. All I know is that the records show that the Finance Minister put some names forward —

Mr D Bradley: So, there is no record of those discussions, no minute or any paperwork associated with them.

Mr Sterling: No. I have not seen any paperwork of that nature.

Mr D Bradley: So, those two external members were appointed specifically to protect the interests of the Northern Ireland economy. Would that be right?

Mr Sterling: I suppose that the purpose of the advisory committee was to allow NAMA to be given a better understanding about the circumstances in Northern Ireland that were affecting the business community, the economy as a whole, and, indeed, the issues that were facing some of the borrowers who had assets that were held by NAMA.

Mr D Bradley: What was the role and function of the two external members?

Mr Sterling: Again, the advisory committee was a body that was the responsibility of NAMA and the Irish Government. So, I do not have detailed terms of reference for the advisory committee before me, but I will see whether we can get them.

Mr D Bradley: Would you have them in the Department?

Mr Sterling: If they exist and we have them, I will share them with you.

Mr D Bradley: As I said, Minister Wilson was at pains to have some form of representation within the activities of NAMA, and the advisory committee was set up. It seems strange that there was no means of communication between the advisory committee and the Minister and/or the Department. Surely the concern of the Minister would mean that he would wish to be informed of any potential moves within NAMA that might impact on the economy of Northern Ireland, because that was his initial concern.

Mr Sterling: I know that there were quite a few meetings between the advisory committee, the Minister and, indeed, DFP officials. Indeed, in your papers, you have the briefing notes and the notes relating to some of those meetings.

Mr D Bradley: So, apart from the formal meetings that took place between the Minister and advisory committee, there were no other communications between individual members of the advisory committee and the Minister and/or the Department?

Mr Sterling: There may have been. As I say, I do not know.

Mr D Bradley: Is there any record that you are aware of?

Mr Sterling: Put it this way, I will check again, but I do not think that we would have a record of any casual discussions there might have been between people who would meet from time to time and that sort of thing.

Mr D Bradley: OK. You are saying that the Department and the Minister did not have a role in the appointment of members to the advisory committee.

Mr Sterling: No. The appointments to the advisory committee were a matter for NAMA and the Irish Government.

Mr D Bradley: And there was no input whatsoever from either the Minister or his Department.

Mr Sterling: Other than, as I explained, names were put forward — I should say not by just the Finance Minister — and then there may have been discussions about those names between the respective Ministers.

Mr D Bradley: For example, was Mr Cushnahan's name put forward by the Minister and/or the Department?

Mr Sterling: Mr Cushnahan's name was put forward by Minister Wilson. Again, one of your papers shows that.

Mr D Bradley: Was Mr Rowntree's name put forward by the Minister and/or his Department?

Mr Sterling: No. My understanding is that Mr Rowntree's name was put forward by somebody else within the Executive, but I do not have absolute confirmation of that, so I would not want to be drawn on it.

Mr D Bradley: Would it be possible to ascertain who within the Department put forward the name of Mr Rowntree?

Mr Sterling: Mr Rowntree's name was not put forward by DFP or the Finance Minister. I am saying that it was put forward by —

Mr D Bradley: I meant within the Executive.

Mr Sterling: Yes. I will do what I can to find out and confirm that.

Mr Ó Muilleoir: Can I ask a supplementary question, with Mr Bradley's permission?

Mr D Bradley: Yes.

Mr Ó Muilleoir: You are saying that your Department, although you, David, were not there as permanent secretary at that time, had no input into the appointment of Mr Cushnahan and had no advice to give on it, even though you accept that those appointments and the role of NAMA in the North were fundamental to the performance of the economy. At no stage did DFP express a view on the appointment of Mr Cushnahan.

Mr Sterling: The advisory committee was Minister Lenihan's idea. He sought nominations from the Finance Minister. As I explained, the Finance Minister put forward three names. So, it should be clear that those three names were considered by the Finance Minister to be appropriate for the work.

Mr Ó Muilleoir: You are saying that the Department had no view on this. You agree that NAMA's role in the North was absolutely fundamental and key to the performance of the economy here — the loan book?

Mr Sterling: Absolutely.

Mr Ó Muilleoir: Yet you had no view at any stage over the last four years on the appointment of who would sit on the advisory committee. There was nothing in writing to say that it was a great appointment, a poor appointment or a wise appointment. You had no view on the appointment to the advisory committee of NAMA at any point?

Mr Sterling: Maybe I am not explaining myself clearly enough. It was not for us. These were Irish Government appointments. The Irish Government asked for names that would be appropriate to serve on the committee. You have before you the details of three names that were put forward by the Finance Minister. I want to be clear: there is no distinction between the Minister and the Department; the Minister is the Department.

Mr Ó Muilleoir: I am going to hand back to Mr Bradley. I think that it is absolutely surreal to suggest that the Department — you are telling us that it is not separate from the Minister — had no view on these appointments.

Mr Sterling: Sorry, I am not suggesting that the Department did not have a view.

Mr Ó Muilleoir: Can we see that view?

Mr Sterling: There is no written view.

Mr Ó Muilleoir: Why would there not be a written view? Surely there is an email. Surely you do not just discuss these things. I am going to hand back to Mr Bradley, as it is inappropriate for me to go on.

The Chairperson (Mr McKay): There is a need for clarification here. You stated that the Minister is the Department. Quite clearly, the Minister has put forward a number of names, and Brian Rowntree's name is not there. This letter to Brian Lenihan has been very heavily redacted. We are left with one paragraph. Can you give us an assurance that the redacted parts have nothing to do with NAMA?

Mr Sterling: I can absolutely give you that assurance. All the redacted matters in that letter relate to an issue that has nothing to do with NAMA. To be clear: the purpose of that letter was not to deal with the NAMA issue. The NAMA issue was very much a piece at the end of a letter that was dealing with a different issue.

The Chairperson (Mr McKay): It appears to me that Sammy Wilson — the Department — did put forward names that were adopted and that this was some form of informal process. There is a comment from a NAMA spokesperson, Ray Gordon, on public record, who, on 2 July 2012, stated and asserted that the appointments were made by both Minister Wilson and Minister Noonan as regards the make-up of the advisory committee at that time. So, as far as I am concerned, Sammy Wilson —

the Department — did put forward names for appointment to this, whatever way it is dressed up. That is what, in fact, happened.

You also stated that names were put forward not just by the Finance Minister. Who else put names forward?

Mr Sterling: That is what I am saying. I do not know for definite who put forward —

The Chairperson (Mr McKay): But you heard it somewhere. So what did you hear?

Mr Sterling: I would rather not repeat what I do not know for a fact. What I am saying is that I will —

The Chairperson (Mr McKay): Have you heard it in the Department? Have you heard it anecdotally outside government?

Mr Sterling: I have heard it anecdotally within government, but, as I said, I would rather come back to you in writing with the facts that I can ascertain.

Maybe I am not making this absolutely clear: irrespective of the quote you gave, the advice that I have is that the appointments to the advisory committee were a matter for the Irish Government.

The Chairperson (Mr McKay): I will repeat the quote I gave from the letter from the head spokesperson of the Department of Finance and Personnel:

"I would advance Frank Cushnahan and"

— then a name is blocked out —

"(two well-respected ex-bankers) and Richard Pengelly (the Public Spending Director here in DFP)".

That is a direct link between DFP and the appointment of Frank Cushnahan. It was proposed by the Department of Finance and Personnel.

Mr Sterling: Yes. Again, it was Minister Wilson who made those proposals. He spoke for the Department, but those were purely —

The Chairperson (Mr McKay): The issue for me is the total absence of any advice or criteria for making or suggesting those appointments. Given the importance of the NAMA portfolio to the Northern economy, surely there was more to this than the Minister simply writing a couple of names on the back of a fag packet.

Mr Sterling: I am not sure that I would characterise it in that way.

The Chairperson (Mr McKay): I do not see any other criteria used, from the papers that have been given by the Department. Surely there must have been more consideration by officials in the Department with some expertise in these areas to put forward names to the Minister for consideration.

Mr Sterling: I am happy to come back to the Committee with further clarification on that point. The position is as I described it. Again, I emphasise that the matter of who was to serve on advisory committee in the end was clearly one for the Irish Government and NAMA. That was not a decision in which the Finance Minister had a significant role.

Mr D Bradley: Considering the strategic importance of the NAMA portfolio to the Northern Ireland economy, which, you said earlier, was widely recognised in DETI and the Department of Finance and Personnel, I would have thought that, if the Minister had the opportunity to recommend names for inclusion on the advisory committee, his officials would have prepared a select list, there would have been a biography on each prospective member and the Minister would have chosen out of that pool. Therefore, there should be a record — it would be good practice to have one — in the Department of the pool of people who were proposed to the Minister and of the Minister's reason for his selections. You are saying that that does not exist. Perhaps you will check.

Minister Wilson seemed to be taking the lead in this process; the Chair quoted from a letter that he sent to the Minister in the South in which he recommended three names. Suddenly, that changed, and another member of the Executive, who is, as yet, unknown to us, recommended Mr Rowntree. Is there any explanation for the lead moving to some extent from Mr Wilson to another Minister?

Mr Sterling: No. As I said, I am not aware of the circumstances that lay behind that, but I will come back to the Committee if I can establish clearly what exactly happened there and, to finish off on the other point, to establish whether there was anything more on how the three names that were put forward —

Mr D Bradley: The process that was involved in that.

Mr Sterling: Yes.

Mr D Bradley: One of the other things that intrigues me is the initial reason — I remember Mr Wilson raising this matter either in the Assembly or at this Committee or at both — for the interest that was taken in the establishment of the advisory committee and NAMA, which was, namely, the fear of a fire sale of assets. That word was used time and time again, and I see it frequently in the papers you have supplied us with. So, the prevailing view in DETI and DFP was that we needed to be very careful that there was no fire sale of assets and to have a voice within NAMA, on the board, and, if not, as close as possible to the board, to avoid a fire sale. Yet, at the end of this process, we see a fire sale taking place. When did the shift in thinking take place within DETI and DFP that a fire sale was suddenly a good thing?

Mr Sterling: I would not say that a fire sale has taken place. Obviously, NAMA was set up in 2009. It is now 2015. Circumstances have changed; things have moved on. I think the important point in all this is that the decision to sell the assets that NAMA held in Northern Ireland was a matter for NAMA and for NAMA alone.

Mr D Bradley: Yes, but meetings, let us say, seem to have taken place between interested parties. No doubt we will have an opportunity to look into that later.

Chair, I will allow you to move on at this stage.

The Chairperson (Mr McKay): Just a quick point on the nomination of Richard Pengelly before I bring John in. A departmental paper was issued after the Sammy Wilson letter in November 2009. This one was from 26 February 2010, and it states:

"Brian Lenihan is content to accept Frank Cushnahan as a nominee, but there is some uncertainty about our nomination of Richard Pengelly. Minister Wilson will provide an alternative second nominee, should Richard be ruled ineligible."

Did Mr Wilson provide an alternative name, as suggested there?

Mr Sterling: I do not know the answer to that. As far as the nominations for budget director are concerned, I think it was a matter of policy. The Irish Government did not want to have officials, North or South, on the NAMA advisory committee.

The Chairperson (Mr McKay): Would Richard Pengelly have been the "natural" choice for the nomination based on his position in the Department? Did he have some degree of expertise on NAMA?

Mr Sterling: He was the budget director at the time, so he would have had an interest in public expenditure and economic issues affecting the Department.

The Chairperson (Mr McKay): So, he would have been best placed within the Department?

Mr Sterling: He would have been, yes.

Mr McCallister: I think Alan commented that, when the reappointment process happened in 2012, there was no discussion around that. Is that because by 2012 you viewed that some of the problems of fire sales and had gone out of it, or was it still —

Mr Sterling: Sorry, just to be clear, what I said was that I am not aware of whether there were any discussions about the reappointments. Again, we will try to find out about that.

Mr McCallister: I agree with Dominic's point. DFP is the lead Department for appointing people to the boards of anything, except it is outside the jurisdiction; we do not have the legal framework. If you were appointing people to boards up here, it would go through a public appointments process. Would you not have expected to draw up some sort of shortlist of suitable candidates anyway and to have a much broader discussion throughout the Department about who would be suitable for nomination?

Mr Sterling: At the risk of repetition, the appointments were ultimately a matter for the Irish Government and NAMA. I do not know what due diligence they did before they decided. According to the records that I have seen, they were simply asking for some suitable names to be put on the advisory committee of people who would understand and reflect Northern Ireland's circumstances to the committee. If we were creating a body and appointing people to it, various processes would have been followed.

Mr McCallister: I am sure that when the signal came from the Finance Department in Dublin that it wanted suitable names, you would have wanted that process to kick in to get the best and most suitable people. It might have ended up being Mr Cushnahan, but you would have wanted to get the most suitable people. When they flagged up issues around, say, Richard Pengelly, as a government official, being appointed, you would still have wanted a process of having maybe five or six names of suitable people. It seems to be a very strange way of doing it; how you arrived at it is effectively like a magic circle.

Mr Sterling: I am in danger of repeating myself again. Names were invited, and names were put forward. I do not think it is entirely unusual. I cannot comment on what processes NAMA and the Irish Government would have gone through before finally deciding who it was they wanted to appoint to the Committee.

Mr McCallister: I want to ask you about the other appointment by another member of the Executive. I take it that it went directly? If there is no paper trail of that in DFP, it did not come through DFP but went directly from another Minister to the Finance Department in Dublin.

Mr Sterling: That is broadly what I have picked up, but, as I say, I will come back to the Committee when I have established exactly what happened, assuming that I can.

Mr McCallister: Was that deemed to be on behalf of the Executive or on behalf of that individual Minister's Department?

Mr Sterling: As I say, I do not know chapter and verse on that. I will come back to the Committee.

Mr McCallister: But there was very limited or no contact or approval from DFP, or DFP's advice was sought —

Mr Sterling: There would not have been. It would not have been a matter for DFP to approve, because these were not DFP appointments.

Mr McCallister: They were not DFP appointments, but it was DFP that Minister Lenihan asked to make some recommendations. Would it not be unusual, then, for another Minister in another Department to go through that? Even when we are working, this Committee does not tend to interfere in another Department's remit.

Mr Sterling: As I say, I do not know exactly what happened at the time. I will seek to find out, and I will come back to the Committee.

Mr McCallister: It is broadly accepted that the big concern when this was set up was fire sales. I think that is broadly accepted. There was a huge concern that the property market was effectively in free

fall at that time. You said that there were regular meetings between Mr Cushnahan, or the advisory panel, and DFP officials. How valuable were —

Mr Sterling: The Minister would have attended most of the meetings between the advisory committee and DFP.

Mr McCallister: Was DFP broadly content with the way that the process had been managed in the sale of assets over that period — from 2009 until now? Did it have any input into that process, or did it make any suggestions about what the members of the advisory panel should have been pushing for or lobbying for?

Mr Sterling: I think that the briefing notes that you have before you, and the notes of the meetings, give you a clear indication of the types of issues that were being discussed. Clearly, there were a variety of issues. Generally, it is safe to say — indeed, it is a matter of record — that the Finance Minister was broadly content with the way that NAMA was conducting its business.

The Chairperson (Mr McKay): Obviously, the Minister's letter to us in November 2009 was not the start of this process of advancing names. The only papers that we have before that are papers for the Minister ahead of a meeting with Brian Lenihan on Tuesday 8 September 2009. However, there are no minutes of that meeting, and there are a number of other meetings where there are notes ahead of them but no minutes coming out of them. Where are the minutes of that meeting, or a note of it? I presume that at that meeting there was the first discussion of names advanced by Minister Sammy Wilson. That is when it first came up, I presume.

Mr Sterling: There are some meetings for which there may be no minutes or records. Again, I will double-check to make sure that if we have a record of any meetings for which you do not have minutes, we will pass it to the Committee.

Mr A Ramsey: David, maybe we should just make the point that strategic policy division, as the relevant business area within DFP, has initiated a detailed file review. While that is significantly advanced, we are still undertaking the review, and members have a large chunk of the papers in their pack today. However, we are continuing with that review.

The Chairperson (Mr McKay): When will it be concluded?

Mr A Ramsey: I hope that we will have the majority of papers identified and reviewed this week.

The Chairperson (Mr McKay): So, at this moment in time, in terms of the Finance Minister advancing those names to NAMA, the Department does not know how that process began?

Mr Sterling: Sorry, the process for?

The Chairperson (Mr McKay): The process whereby the Finance Minister, the Department, put forward names. Obviously, that must have come out of a conversation with NAMA officials or the Minister in the South. So, as far as I and Committee members are concerned, we do not have the beginning of this story in that regard. From what you are saying, the Department does not know either.

Mr Sterling: You have all the papers that are available in and around that particular issue, subject to anything further that we find on file.

The Chairperson (Mr McKay): So, you do not know? But should you know? I believe that you should know these things, given that these issues have been raised in the news and in the public arena over the past number of weeks.

Mr Sterling: Just to be clear, I should know what? What is it?

The Chairperson (Mr McKay): In terms of the appointment. Frank Cushnahan, obviously, was the one name that went forward.

Mr Sterling: No, sorry: three names went forward.

The Chairperson (Mr McKay): Frank Cushnahan was the only one that got on to the advisory body.

Mr Sterling: And that was the choice of the Irish Government/NAMA.

The Chairperson (Mr McKay): It was obviously the choice of Sammy Wilson as well. And that is clearly —

Mr Sterling: But it was the Irish Government and NAMA —

The Chairperson (Mr McKay): If you let me finish: that is clearly where the name came from, as far as I can see.

Mr Sterling: Absolutely, yes.

The Chairperson (Mr McKay): The Minister put forward those names, obviously — I presume — in response to the discussions he had with Brian Lenihan on 8 September 2009, but the Department and you, as permanent secretary, do not know what led up to the point where the Minister sent that letter.

Mr Sterling: No. There are no further papers that I am aware of, other than that we know — again, we discussed this — the Department was keen that there would be a Northern Ireland representative on the NAMA board. Minister Lenihan rejected that. The advisory committee was, in a sense, a compromise. Names were invited, and the Finance Minister put forward the three names, one of which was selected. Again, another name came forward from another source, and I will establish how that came about and come back to the Committee.

Mr Cree: David, what was the Department's knowledge of the fee arrangements relating to the sale of the Northern Ireland portfolio?

Mr Sterling: For the reasons I articulated, I would prefer not to deal with questions in and around Project Eagle today. I emphasise that I am not refusing to answer; please accept that. However, I want to ensure that there is absolutely no risk of us prejudicing any other investigations that are going on. I would prefer not to answer that. If the Committee wants to put that question to me in writing, I am happy to address it to the best of my ability and the best of the Department's ability. Indeed, it may be that, at some stage in the future, we can come back and deal with that type of issue.

Mr Cree: Chair, I think that this is germane to the whole exercise. I have a series of questions on that. Perhaps, bearing in mind what you said, David, we will put it to you.

Mr Sterling: I have come here today and have not yet seen the terms of reference for your inquiry. I understand that you were discussing those earlier. I do not, in any way, want to be unhelpful, but given all that is going on elsewhere and the other investigation, etc, I think that it would be better if we could reflect on questions like that, take necessary advice and get back to you with as full an explanation as we can give.

The Chairperson (Mr McKay): I think that there is a way around this. We have had discussions with the NCA, taken our own legal advice and run our questions past the legal side as well. So, we believe that the Department should answer these questions to the best of its ability. Obviously, there are clear areas closer to the end of this timeline about which there will be issues, but I think that, in general, in the context of the line of questioning from Leslie, you should give a bit of background on what DFP's role was and what information it has. You can answer it in general, and then Leslie may want to pursue it in more specific terms, but I do not think that a point-blank refusal to comment is acceptable to the Committee.

Mr Sterling: I am not saying that I am giving a point-blank refusal to comment. I am saying that I would prefer not to answer that question at this moment. I am very happy to take that question back and give you a considered response in writing, and, if appropriate, I would be happy to come back to the Committee and allow you an opportunity to question again beyond that.

Mr Cree: If we could flesh that out, Chair, that would be OK.

The Chairperson (Mr McKay): So you are content, Leslie?

Mr Cree: Widen it out.

Mr Sterling: I should say, Chair, that I do not think that that is unreasonable. We are in the very early stages of your inquiry, and I expect that this will take some time. We are very happy to —

The Chairperson (Mr McKay): My personal view is that I do not think that asking the Department or yourself about what information you had on fees, how fee payments were to be made and when you became aware of any issues around fee arrangements through dates on a timeline will compromise any court proceedings. I believe that you can answer questions on that, and you may want to return to it later. Máirtín, you are waiting to ask questions.

Mr Ó Muilleoir: Thank you, David and Alan. It is good to see you. Thanks for coming in. I will move away from the past and into a hypothetical future. If I were the Finance Minister — God forbid — and I told you that I was asked by Minister Noonan to make two appointments to a board that is interested in a systemic and fundamental economic issue for the North of the country, how would you advise that I should go about perhaps drawing up a shortlist for making two appointments? Would you suggest that I pick them out of a hat or that I do not take any advice from you?

Mr Sterling: I am not going to get into a hypothetical discussion about what might or might not happen. You asked me about what knowledge we have about what happened in the lead-up to the appointment of the Northern Ireland members to the advisory committee. I have given you some papers. You have seen the papers that exist. I have tried to explain this to the best of my ability this morning. I am happy to take further questions, but I am not sure that there is much more that I can add to what I have already said.

Mr Ó Muilleoir: Let us say that, in general terms, a Minister approaches a permanent secretary and says, "I have been asked to put forward two names for an important body". What advice would you give that Minister about the selection of those two people?

Mr Sterling: Obviously, if the appointments are the responsibility of the Department, there are various processes that we would go through. I have to emphasise this point: these appointments were not the responsibility of DFP. They were the responsibility of NAMA/the Irish Government.

Mr Ó Muilleoir: You cannot wash your hands of it entirely, David, because if a Minister approaches you and says, "I have been asked to make two nominations. It will not be my decision at the end of the day. It is the decision of a different body", are you saying that you would say, "It is nothing to do with us"? Or would you say to the Minister, "This is a very important body. This is the procedure that I would follow"? Which is it?

Mr Sterling: As I say, if they were our appointments —

Mr Ó Muilleoir: No, they are not your appointments, but they are important to this economy and to the future of our citizens as well. They are being made by another agency, but that Minister is being asked to put forward two names. You have no advice at all for the Minister?

Mr Sterling: Within our own public appointments process, at the start of a process we routinely ask Ministers whether are any names that they would like to be considered. This idea that Ministers put forward names is not that unusual.

Mr Ó Muilleoir: And you give no advice?

Mr Sterling: If we are asked for advice, we will give advice.

Mr Ó Muilleoir: Would you say to a Minister that it might be a good idea to ask for advice?

Mr Sterling: Ministers know that we are there at all times to give advice.

Mr Ó Muilleoir: Tell me this: do you think that the sale of the NAMA portfolio was a mess?

Mr Sterling: The sale of the NAMA portfolio? I have no reason to believe it was a mess. I should say again that the sale of the NAMA portfolio was a matter for NAMA and the Irish Government.

Mr Ó Muilleoir: I understand, but I am asking you as permanent secretary: do you think that it was a mess? It has been in the papers for the last two months.

Mr Sterling: I am not going to offer an opinion on that. I do not think that it would be appropriate for me to do so.

Mr Ó Muilleoir: It was a scandal.

Mr Sterling: Again, I do not think that it would be appropriate for me to comment on that.

Mr Ó Muilleoir: You are the permanent secretary of the Department that is most intimately involved in the management of our finances. It was a huge property transaction, certainly the biggest ever in this part of the country. Have you any view at all on how it was carried out?

Mr Sterling: I cannot offer any sort of authoritative view on, it because I have not been presented with all the papers that will have been before the NAMA board before it made the sale. I could offer a view on the sale only if I were privy to the information that the NAMA board was, but I am not. It would be wrong for me to offer a comment on something for which I have no accountability and no particular knowledge.

Mr Ó Muilleoir: Are you saying that the Department of Finance and Personnel had no involvement at all in the sale through the nomination of advisers to the advisory committee?

Mr Sterling: DFP was not consulted about the sale of the NAMA assets. We had no responsibility —

Mr Ó Muilleoir: Yes, I understand, but you do accept that the Minister and the Department are one and the same.

Mr Sterling: Absolutely.

Mr Ó Muilleoir: The Minister put forward nominations to an advisory committee. We now know that huge questions are being asked over the conduct of that sale, but you have no comment at all on the nature of that sale — whether it was a great deal, a bad deal, a scandal or a mess. Nothing at all.

Mr Sterling: Again, I am sorry, at the risk of repeating myself, I cannot comment on matters like that. First, I am not accountable for what took place. Secondly, I am not privy to the information that was available to the NAMA board.

Mr Ó Muilleoir: I understand what is happening, and I want to move on to another issue, but you are washing your hands of it entirely.

Mr Sterling: No, I am not —

Mr Ó Muilleoir: Let me finish this, permanent secretary. In my view, what is happening today is that we are being told that DFP is washing its hands of the entire NAMA sale, but, at the same time, appointments were made to a NAMA advisory committee. That is at the very heart of what has been described as "a dirty scheme". It is at the very heart of it, and you cannot wash your hands of that. Either you put your hands up and say, "Something happened here that was inappropriate, improper and that we would have done differently", but you are not offering any of that at all. It seems to me that while this transaction happened, which was of huge importance to this economy, you were sleepwalking through it.

Mr Sterling: There are a number of points that I need to make clear here. You can only wash your hands of something for which you are responsible. DFP — the Department and the Minister — was not responsible for the sale of the NAMA assets.

Mr Ó Muilleoir: It was responsible for the appointments and nominations of appointees to an advisory committee. That is at the heart of this process.

Mr Sterling: Sorry, no. We were not responsible for the appointments to the advisory committee.

Mr Ó Muilleoir: You were responsible for the nominations.

Mr Sterling: Names were put forward. It was the Irish Government/NAMA that decided who should sit on that.

Mr Ó Muilleoir: From a shortlist of two provided by the Government here.

Mr Sterling: The other point is that it was an advisory committee. It was not the advisory committee that decided on the sale.

Mr Ó Muilleoir: Yes, but you have read the papers. You understand, without making any allegations, that the role of the advisory committee is at the very heart of what has been described as "a dirty scheme". It is at the very heart of it. Unfortunately, you cannot have it both ways. You cannot say, "It's nothing to do with us", "We were looking the other way, "It's to do with NAMA" or, "It's to do with the Irish Government". I do not think that you can have it both ways. This Government, this Minister and your Department are intimately involved in the nomination and appointment, because the appointment is made only on the basis of the nomination. So, you cannot have it both ways, David; you cannot say, "It's nothing to do with us".

This is a mess and a scandal. I am not making allegations about criminality. Anyone walking by on the street can see that it is a mess and a scandal. You cannot even see that; and you are the permanent secretary. You cannot see that this is a mess and a scandal that casts a poor light on all of us in this body and on your Department. For me, it is totally unacceptable. In my view, we are badly served on many levels in this, but we are badly served if our most senior person in the Department sees nothing at all to worry or concern him about the sale of the NAMA portfolio.

Mr Sterling: I think I have made my point very clear: I can be accountable only for the things for which I am responsible. DFP was not responsible in any way for the NAMA sale. I am not going to get into this any further, but it is important, when looking at all the issues, to distinguish between what happened on the sale side and what happened on the purchase side. I am not going to say any more than that.

Mr Ó Muilleoir: I will move on; this is my last point. The sale and the purchase is what Mr McDonagh, Mr Daly and Minister Noonan are majoring on. They are saying, "It looks to us like something dodgy happened here. There are kickbacks, and stuff happened that we're not proud of, but it happened on the other side of the deal". For me, as someone who is concerned about taxpayers, ratepayers and citizens across this island, that is not good enough. If NAMA did not get the correct price for its North of Ireland portfolio because of information that was provided improperly to the purchaser, that is a matter of grave importance to NAMA and us. One person sold and another one purchased. I think that the person who was taken on — the person who lost out — was the ordinary taxpayer on this island.

In the North, if something so key to our economy was sold in an improper way, it involves us as well. NAMA has refused to come and talk to us, which I think is a disgrace. It says, "We're washing our hands of that because, on our side, we're confident that we did nothing improper". Maybe it did something stupid, because it sold at a price that was probably £1 billion less than it would be today. When NAMA washes its hands of it and says that it is someone else's problem, I do not accept that. I do not accept that we, on this side of the border, can say that it is someone else's problem either. For me, it is a problem that affects everyone on the island. Everyone, including the permanent secretary, the Minister and us as politicians, need to get to the bottom of it and tell ordinary people what happened. There was either improper activity or incompetence. One way or the other, everyone cannot wash their hands of it.

That is not a question, so you do not need to come back on it. It is frustration.

The Chairperson (Mr McKay): To bring us further up the timeline a bit to 2012, there is a note of a meeting between NAMA and the Minister in December 2012. I am highlighting this, because in the meeting between the Minister and Frank Daly on 22 April 2013, the first issue on the agenda — I think that particular time was the first time that the Minister had met NAMA representatives in about five

months — was the Millmount development in Dundonald. Where the December 2012 meeting is concerned, the note says:

"Millmount? Perhaps first candidate for extending the 80:20 preferred payment scheme to NI. Minister agreed help launch perhaps January".

We then move forward to the meeting in April 2013. The first item on the agenda is on the £9 million funding that was made available to Millmount. Some eyebrows have been raised in the Twittersphere, shall we say, about this issue. Would it have been normal for a particular development to be the first item on the agenda of a meeting between the Minister and NAMA, given the size of the portfolio and the more macroeconomic issues that would have been of greater concern than a development like this?

Mr Sterling: Again, I was not there at the time that the agenda was constructed, but you will see that this meeting was one of a series, and issues ran through those various meetings. So, I do not see anything unusual at all about the way the agenda was constructed.

The Chairperson (Mr McKay): What is unusual is that there are no notes from the meeting. This is the briefing note that was provided. Millmount was to be the first item on the agenda, but there are no meeting minutes or notes, so we do not know what was discussed in that regard, which I also find unusual.

Mr Sterling: As we said earlier, we will check to see whether there was a note of that meeting. It may be one of those outstanding papers.

Mr A Ramsey: It may be, Chair. As I said, we have not completed our file search at this stage, although I suspect that, if there is no minute here at the moment, there may not be one.

The Chairperson (Mr McKay): Should there not be minutes of all meetings between the Finance Minister and NAMA, given the magnitude of the issues concerned?

Mr Sterling: Yes, I accept that.

The Chairperson (Mr McKay): Can you give us some background on the Millmount development issue and the Department's awareness of it?

Mr Sterling: I do not have any further details before me today, but we will get back to you on that.

The Chairperson (Mr McKay): OK. So have you no idea at all about the issues regarding Millmount?

Mr Sterling: No. Personally, I do not.

The Chairperson (Mr McKay): OK. Will you send officials who can brief us on that?

Mr Sterling: Yes.

Ms Boyle: Thank you and welcome, David and Alan. The media have reported that the former Finance and Personnel Minister, Simon Hamilton, the First Minister, Dan Quayle, Cerberus and others had a meeting at Stormont Castle in March 2014. That was before any sales were concluded. Was DFP, including the strategic policy division, aware of the meeting in advance? If so, which Minister took the lead in facilitating that meeting? Were officials in attendance? If so, what was discussed and agreed at that meeting?

Mr Sterling: Again, I will come back to you on that issue. We are again getting into issues in and around Project Eagle. As I explained, I am happy to deal with the Committee's questions around this, but I would prefer to do so in writing in the first instance.

Ms Boyle: OK. David, did you not find it peculiar that the deputy First Minister was not included in the whole process?

Mr Sterling: Again, I will come back to you with a comment on the circumstances surrounding that.

Ms Boyle: OK. This is something that, I think, you can answer: under the NI Act 1998, it is a condition of the appointment of Ministers here — including the First Minister, the deputy First Minister and the junior Ministers — that they affirm the terms of the Pledge of Office. Part of that pledge states that it is the responsibility of Ministers:

"to observe the joint nature of the offices of First Minister and deputy First Minister".

Do you believe that, in the whole of this process, DFP ignored or even breached that statutory rule, since the deputy First Minister was not part of the meeting, informed or, indeed, consulted as part of the entire process as he should have been under that Act?

Mr Sterling: Again, you refer to issues that are to do with the Office of the First Minister and deputy First Minister, so I would prefer not to comment on those at this stage. However, I will get back to you with an answer on that.

Ms Boyle: OK. Thank you.

The Chairperson (Mr McKay): Just to come back to my previous point about the Millmount development: can we get a timeline regarding that? Obviously, the Minister had meetings regarding Millmount with NAMA. If we cannot get the minutes, we need somebody who was there perhaps. I do not know whether any civil servants were present at that meeting who are still in the Department. Also, NAMA subsequently announced that £9 million funding was to be made available for that development. I am keen to establish whether there is a linkage between the meetings that the Minister had and the subsequent funding of that development.

I will bring things further forward. There were a number of letters from, and a degree of activity involving, the Department and the Minister in June 2013. There was a letter from Tuvi Keinan of Brown Rudnick. He wrote to Sammy Wilson in regard to the NAMA portfolio. He started that letter with, "Further to our discussions", so it is quite clear that there had been prior discussions and engagements between the Minister and Brown Rudnick. I cannot see anything in front of us here today from the Department prior to that June 2013 letter. Does the Department have any indication of when those discussions began? Were there meetings? Were there phone calls? Were officials present?

The Minister's response was that he wrote to the Finance Minister in the Dáil on the exact same day as he received the letter from Brown Rudnick. I find that highly unusual because I, as the Chair of the Committee, wrote to Sammy Wilson on many occasions and never got a letter back on the same day. That is a bit of interest. I would like some indication of why that was forwarded on as quickly as that and whether any officials had any input into the letter that Sammy Wilson sent to Michael Noonan on the back of the correspondence from Brown Rudnick.

Mr Sterling: I will need to come back to you on that. We will come back to you with an explanation of the circumstances surrounding that particular issue.

The Chairperson (Mr McKay): So, you know nothing about it.

Mr Sterling: I was not there at the time. I have seen the correspondence, but I have not had an opportunity to speak to those who were there at the time or to former Minister Wilson.

The Chairperson (Mr McKay): Obviously, permanent secretary, we would have preferred you to have been before the Committee last week. You were not able to send anybody in your place. You are before us this week, and I believe that you have had adequate time to prepare for this session and that these would have been obvious questions to ensure that you had answers to. I am not happy with how this meeting is going so far. We need answers to these questions, and we need answers quickly. I am concerned at the fact that there is this delay, delay, delay coming from the Department. This has been out in the news and the media for some time now, so surely the Department should have some indication of whether officials knew anything about the letter that the Minister, Sammy Wilson, sent to Michael Noonan. It is an easy question.

Mr Sterling: Yes, it is an easy question, but the key officials who were there at the time are not in the Department any longer or are not available because of leave, so I have not been able to speak to the people whom I would need to speak to.

The Chairperson (Mr McKay): Who are the key officials?

Mr Sterling: I would prefer not to name names at this stage.

The Chairperson (Mr McKay): Could you provide the names of those officials to our Committee staff so that the Committee can consider that further?

Mr Sterling: Yes.

The Chairperson (Mr McKay): Obviously, the Committee has a number of questions in regard to this. The Minister, Sammy Wilson, in his correspondence to Michael Noonan on the same day, stated:

"I have already had discussions with some of those who are interested ... in the ... loan book."

It comes back to an earlier point that Máirtín made about how the Department was involved in the sales process. I believe that this letter from Sammy Wilson puts him front and centre of discussions pertaining to the sale of the loan book, which is somewhere that I believe the Minister should not have been. Was there any correspondence between your Department and OFMDFM on this particular issue? Obviously, it was not just DFP that was dealing with it. OFMDFM has also been dealing with this issue further on down the timeline.

Mr Sterling: I am not aware of any correspondence, but we will check that point.

Mr D Bradley: Chair, do you mind if I ask a question at this point? As we said earlier, there was obviously great concern in the Department about the NAMA portfolio, to the extent that the then Minister petitioned the Irish Government for representation on the board, eventually got the advisory committee set up and met quite often with his Southern counterpart and the advisory board on the issue. Outside of that, are you aware of any contacts or meetings that Minister Wilson, Minister Hamilton or their officials had with any potential purchasers of or bidders for the NAMA portfolio?

Mr Sterling: I do not have any information before me in regard to that matter.

Mr D Bradley: Is it in order, Chair, to ask Mr Sterling whether he would search the Department's records and try to establish whether there is any documentary record of any such meetings having taken place?

Mr Sterling: I am happy to do that as part of the ongoing file search.

Mr D Bradley: Thank you.

The Chairperson (Mr McKay): This letter is fascinating to read, given the fact that the Department has been at pains to point out that it has not been involved in the sales process. The Minister stated:

"I believe there would be advantages in pursuing these proposals [outlined by Brown Rudnick] for both the Irish Government and the Northern Ireland Executive."

In your view, was that not an extraordinary statement for a Finance Minister to make? Should he have been involved in that deal on behalf of a particular purchaser or interested party?

Mr Sterling: For the reasons I outlined earlier, I am not going to offer any particular views on this, but I am happy to come back and clarify that point.

The Chairperson (Mr McKay): If a similar letter were to come across your path in the future, would you advise against it?

Mr Sterling: That is a hypothetical situation.

The Chairperson (Mr McKay): It is an important hypothetical question.

Mr Sterling: Indeed.

The Chairperson (Mr McKay): I criticised the Dáil Minister Michael Noonan recently, but he made a very important statement. In response to the Minister, he said:

"Thank you for your correspondence of 24th June on behalf of Brown Rudnick".

Surely the Minister should have been nowhere near that particular correspondence from Brown Rudnick. The Minister in the Dáil suggests that the issue should be passed to NAMA, so, as soon as that letter came into the Department of Finance and Personnel, the response should have been that this is an issue for NAMA and that neither the Department nor the Minister was going to touch it or get involved, for clear interest.

Mr Sterling: I note your view on that, Chair.

The Chairperson (Mr McKay): Do you agree with that view?

Mr Sterling: For the reasons that I outlined earlier, I am not going to offer any comment on Project Eagle.

The Chairperson (Mr McKay): Also, the Brown Rudnick letter that the Minister sent to his counterpart in the South refers to the Northern Irish Government. Officials like you would refer to the NI Executive. It will be referred to as the Government in departmental circles, but the latter memorandum of understanding from the First Minister's office that was sent to NAMA also referred to the Northern Irish Government. Is that a coincidence, or are you aware of any similar correspondence between Brown Rudnick and the First Minister? It seems a bit of a coincidence that the terminology in the letter that Sammy Wilson sent to Michael Noonan is also included in the memorandum of understanding that came out of the First Minister's office.

Mr Sterling: I am not aware of any correspondence with the Office of the First Minister and deputy First Minister in regard to that issue.

The Chairperson (Mr McKay): The Finance Minister who came next — Simon Hamilton — took over in the summer of 2013.

Mr Sterling: I think that it was around June or July 2013.

The Chairperson (Mr McKay): It is interesting because notes in the papers that you released state that the Minister met Michael Noonan on 4 September 2013. I am presuming again that the redactions here have nothing to do with NAMA. The second point that Minister Simon Hamilton raises in that meeting regarding NAMA refers to the correspondence that the previous Finance and Personnel Minister sent to Michael Noonan. So, the first questions that the incoming Finance Minister raises with Michael Noonan in a meeting are about the correspondence that Sammy Wilson sent in June about Brown Rudnick. There seems to be a continuation of that particular issues being a priority for the sitting Minister.

Minister Noonan indicated that this was being passed to Frank Daly in NAMA, and Minister Hamilton was due to meet him in the following month, in October. The interesting point in the meeting with NAMA that followed is point 15. I would be interested to speak to some of the officials who were there because, at that meeting, NAMA indicated to the Minister:

"they may see a change in strategy in coming months to bundle assets to sell [and] bundle loans to sell."

NAMA also stated:

"Larger portfolios were of greater interest to US equity houses."

Some such equity houses were parties that were being represented by Brown Rudnick.

I see a clear linkage here. There is the letter from Brown Rudnick to Sammy Wilson. The Minister then corresponds with Michael Noonan, who says that it is an issue for NAMA. Simon Hamilton then comes into office, and he again raises with Michael Noonan the Brown Rudnick letter. Michael Noonan, to be fair, says that it is an issue for NAMA. Then, when Minister Hamilton meets NAMA, all of a sudden, there is a change of strategy from NAMA in terms of the bundling of assets and loans. There is a change in direction that benefits Brown Rudnick, or the clients whom Brown Rudnick represents.

Do you have any insight into the initial meetings that Simon Hamilton had with Michael Noonan and NAMA about those issues?

Mr Sterling: No, I have no further insights beyond what is in the papers before us, other than to make the obvious point that NAMA's strategy would be a matter for NAMA to determine.

The Chairperson (Mr McKay): Clearly, there has been a position taken by the Department vis-à-vis the sitting Ministers, Sammy Wilson and Simon Hamilton. That does seem to have influenced how NAMA approached the portfolio.

Mr Sterling: That is an inference that you have drawn from the papers.

The Chairperson (Mr McKay): It is an obvious inference. What is emerging is that there is a lack of answers coming from you, permanent secretary, on a number of issues. It is up to members to interpret why that is, but I feel that there is a need to bring other witnesses before the Committee. A number of civil servants were present at those meetings, as were a number of Ministers, so the Committee should give consideration to having those Ministers and civil servants come before the Committee so that we can get some of the detail that is lacking today.

Mr Ó Muilleoir: I am wondering what the responsibility of the strategic policy division was in relation to these matters. Maybe Alan can bring us up to date with that. I do not know whether you were there throughout this lengthy process. What was the strategic policy division supposed to be doing?

Mr A Ramsey: First, like David, I was not there throughout this process. I should say that banking and the regulation of financial services are a reserved matter, so the legislative authority in that area rests with the UK Government. However, given the strategic importance of banking and financial services, which is recognised in the Executive's own economic strategy, we have sought, on behalf of the Department, to engage with a range of financial institutions operating in Northern Ireland.

Mr Ó Muilleoir: Including NAMA, of course. Do they include NAMA?

Mr A Ramsey: Well, NAMA is an agency of the Irish Government.

Mr Ó Muilleoir: Yes, but it is operating here. Did strategic policy division have any direct input into NAMA?

Mr A Ramsey: No.

Mr Sterling: Other than providing advice to the Minister during preparation for the meetings etc.

Mr Ó Muilleoir: What involvement, if any, did strategic policy division have in the process of the sale of the NAMA portfolio and the many instances of advice from the Department to Ministers?

Mr A Ramsey: As David has already said, strategic policy division had no role in the sale of the NAMA loan book.

Mr Ó Muilleoir: Did you have a view on it?

Mr A Ramsey: Regardless — that is not relevant —

Mr Ó Muilleoir: It is not irrelevant as regards NAMA. Did you have a view on it?

Mr Sterling: Well, it is —

Mr Ó Muilleoir: I will let Alan answer. Did you have a view on this process? You cannot say that it is a matter for NAMA. Strategic policy division surely has a view on whether, in the words of Mr Bradley, a "fire sale" did or did not happen and on the way that this portfolio was sold.

Mr A Ramsey: Of course, the Department and the Minister would have had a view in the sense of trying to ensure that the interests of Northern Ireland were protected.

Mr Ó Muilleoir: Would strategic policy division advise on that? Is that what you would have done?

Mr A Ramsey: We would have advised the Minister in relation to the various meetings that he had with NAMA or the advisory committee.

Mr Ó Muilleoir: What advice did you give on the sale of the portfolio in one lot?

Mr A Ramsey: We would not have given advice on the sale of the portfolio.

Mr Sterling: The Department was not consulted about the sale.

Mr Ó Muilleoir: Obviously, you had a view, and you did give advice, because the Minister had a view on it. Obviously, the Minister was taking advice from people, and, as David said earlier, the commonly held view was that it should not be sold immediately and that there needed to be some control over how it was disposed of. What was the view of strategic policy division on the disposal of the NAMA portfolio?

Mr Sterling: Strategic policy division in the Department did not have a view on this because it was not a matter for us.

Mr Ó Muilleoir: Surely you did have a view, because we have gone through many different instances of advice here —

Mr Sterling: We would have provided advice to the Minister if he had sought it, but he did not seek it, because the Department and the Minister were not consulted on the sale of the assets. It was a matter for NAMA.

Mr Ó Muilleoir: No, you are moving forward a bit, and maybe that is what is confusing you. You said at the start of your evidence today that it was the opinion of the Department that a fire sale was not a good idea and that NAMA should not just say, "Everything is for sale today."

Mr Sterling: Back in 2009.

Mr Ó Muilleoir: So you had a view.

Mr Sterling: Yes.

Mr Ó Muilleoir: Did that view emanate from strategic policy division? That is my question for Alan. Is that where those views came from? Which part of DFP comes forward with these views?

Mr Sterling: I made the point earlier that it was a commonly held view back in 2009 or 2010 that there should not be a fire sale, but, obviously, as time passes and circumstances change, that view changes as well.

Mr Ó Muilleoir: What I am asking Alan is when the view of strategic policy division on these matters changed. I am not accepting that it is a fire sale either, in the initial understanding of the term, but I want to know when the strategic policy division started to think, "Well, it might be a good thing, in fact, if these were all sold off. A vulture fund will come in and take them all. Let it happen." At what point did you have a different view on that, if you did have a different view? Did you have any evolving views on any of these matters?

Mr A Ramsey: I personally cannot speak for strategic policy division.

Mr Sterling: It is unfair to press Alan, because he has been in the Department only since the turn of the year.

Mr Ó Muilleoir: I am not trying to do that, but, at some stage, somebody in the Department of Finance and Personnel changed their mind or came to a view. I am not even saying that it was the wrong view. You said that, back in 2009, the general view was, "Do not let these guys release all this on to the market immediately, because it will hit construction and prices and so on, and we do not need that." At some point, the view changed, and somebody in the Department of Finance and Personnel started to say, "Well, actually, it might be OK if this were to be sold to a vulture fund. That might be the way to dispose of it." In fact, several Ministers weighed in and said that it was good for our economy. What I am trying to find out is at what point did the Department of Finance and Personnel change its mind or come to this view. Did it ever come to that view?

Mr Sterling: It is not as though there was one day on which we all woke up and decided that, actually, circumstances had changed fundamentally overnight. Circumstances changed slowly over time. You need to see this in a context in which NAMA itself was starting to dispose of assets. You will see records of discussions in and around individual projects in that regard. What I will say, at the risk of repetition, is that the ultimate decision to sell off all the Northern Ireland assets was a matter for NAMA and the NAMA board, and for them alone.

Mr Ó Muilleoir: Yes, but — I will finish with this, Chair — the reason why we are here is that there is an allegation that the sale of the NAMA assets and the way that they were sold was done improperly. The view of the Department was that it was a good idea, and the view of the Minister was that it was very good for the economy. The view of NAMA was that it was good. All those people came to the same opinion at a time when it was of massive benefit to Cerberus, but when it was at a loss to the taxpayer, certainly in the South of Ireland. It is alleged that there was a dirty scheme. I am trying to find out when Ministers came to the opinion that this sale should go ahead, that it would be a good thing and then welcomed it. At what point did DFP change its mind and go on record as saying — I presume that it went on record somewhere — to the Minister that this was now the best approach to this portfolio and that it was a good idea? The Minister stood up in Parliament and said that we welcomed this and that it was good for the economy. At what point did DFP come to that opinion as well?

The reason for that question is this: it is alleged that coming to that opinion, and everyone coming to the opinion to have this sale — a sale that ended up having only one bidder when PIMCO, effectively, pulled out — did not serve the taxpayer in the South of Ireland, and it did not serve us well either because, if this was a dirty scheme, it should not have gone ahead on our watch. When did the opinion of DFP on this matter appear?

Mr Sterling: I am not going to comment on all the various opinions that you have offered about the sale. Certainly, the view of the Department, as expressed by the Minister at the time, was that the sale offered a positive opportunity for economic development in Northern Ireland. We will have to judge, over time, just how accurate that proves to be.

Mr Ó Muilleoir: Even if it did, or does, have a good effect on the economy, would you accept that, if the sale was improper, it should not have gone ahead? Regardless of the effect that it will have — we will see whether this was an improper process, whether there was interference in it, whether there were improper kickbacks and so on and a dirty scheme — would you accept that it should not have gone ahead?

Mr Sterling: Whether there was any impropriety will be a matter for others to determine. Proper processes will have to be gone through to determine that. We in the Department will do what we can to facilitate those various investigations. One last point on this is that, as far as the disposal of assets by Cerberus is concerned, so far, we do not have any great concerns. That is a matter for another —

Mr Ó Muilleoir: You are joking. Surely you are not putting on the record that you have no concern over how Cerberus acquired this portfolio and how it is disposing of it.

Mr Sterling: No, no, no, no — I am talking about the disposal of assets, where there is evidence —

Mr Ó Muilleoir: I just want to put on record, Chair, what I am reading in the papers, and I have mentioned here before that I have received representations from constituents who are very concerned about how the assets are being disposed of.

Mr Sterling: I acknowledge that, but I also acknowledge the fact that the release of assets has led to some positive economic developments in Northern Ireland.

Mr Ó Muilleoir: Thank you, and thank you very much to Alan especially, as he is so new to the post.

The Chairperson (Mr McKay): David, have you seen the memorandum of understanding that was drawn up in OFMDFM, the First Minister's office?

Mr Sterling: The memorandum of understanding?

The Chairperson (Mr McKay): Yes.

Mr Sterling: Between whom and whom, sorry?

The Chairperson (Mr McKay): The memorandum of understanding that was drawn up in the First Minister's office and sent to NAMA.

Mr Sterling: I have seen that letter, yes.

The Chairperson (Mr McKay): Where have you seen it? Is it in the Department?

Mr Sterling: I have seen it through social media.

The Chairperson (Mr McKay): Social media, OK. That being the case, did DFP not have any role in drawing up that memorandum of understanding?

Mr Sterling: Not that I am aware of.

The Chairperson (Mr McKay): Should DFP not have been feeding into that particular memorandum, given that it was the lead Department in all matters relating to NAMA until that point?

Mr Sterling: Again, I am not aware of all the circumstances behind that particular piece of correspondence. It is a matter that relates to the Office of the First Minister and deputy First Minister. I am happy to clarify whether there was any DFP involvement in that, and I will check that point.

The Chairperson (Mr McKay): So has that not been checked yet?

Mr Sterling: I am not aware of anything as of yet.

The Chairperson (Mr McKay): Listen, we are not getting anywhere with answers on the major issues that you should have expected to be asked about here today. So, I propose that you return in two weeks' time. We are noting the questions that are unanswered. We will give you two weeks to come up with answers to those questions. I am sure, on a number of the questions posed, that there is nothing untoward in the Department's involvement or non-involvement. However, next time, we expect answers, and, in your role as permanent secretary, we expect you to be able to answer these questions.

Mr D Bradley: Just on that point, Chair: Mr Sterling obviously could not answer questions that he did not have answers for, and there were quite a few of those during today's evidence. Neither could he give opinions, and I can understand that. He could not answer hypothetical questions, and I have some understanding of his position on that. However, one would have to conclude from his evidence today that what he has not said is actually more revealing than what he has said. That is an ironic situation to be in as a witness before a Committee. He has refused to answer several factual questions. I cannot see how giving the Committee facts would in any way prejudice him, his position or anything that may happen in the future. I realise that he has not had sight of the terms of reference,

but it is within those terms that we seek to accumulate a body of factual information about all of this. So, hopefully, when Mr Sterling returns — if he does — in two weeks' time, he will be in a position to work within the terms of reference and provide factual information to the Committee when those facts are at his disposal.

Mr Sterling: I am happy to do that. Again, I make the point that I am not refusing to answer questions absolutely. I just feel that, for a variety of reasons that I explained, there are some things that I do not think it appropriate to address today, but I will come back to the Committee.

Mr D Bradley: Why would you be in a position to answer questions in writing and not orally here in public?

Mr Sterling: Again, I was not in the Department during the time in which most of these events took place. I have not had an opportunity to speak to some of the people who were there at the time and are no longer in the Department. I want to be absolutely sure that my answers are not going to compromise or prejudice any other investigations. It is for those reasons that I have been hesitant in giving answers to some of your questions today. I can understand the Committee's frustration with that. I would rather it was not so, but I suspect that this is a process that will take some time, so I will endeavour to ensure that the Committee gets all the information that it needs.

Mr Wells: Mr Sterling, could you be more forthcoming if this case was not being investigated by another body?

Mr Sterling: Undoubtedly so.

Mr Wells: Have you given consideration to the difficulties that you are placed in? Have you given that much thought?

Mr Sterling: I have taken legal advice on this, and my stance today has been informed by that legal advice.

Mr Wells: I understand, of course, that legal advice is always confidential unless the giver provides permission for it to be released. So, I understand that you will have difficulty answering the next question. Has that legal advice constrained what you have been able to say here today?

Mr Sterling: Put it this way: I have taken a cautious approach based on the legal advice that I have been given.

Mr Wells: In your opinion, are there any parallels for a Committee, either a Select Committee of the Commons, a Committee here or in the Oireachtas, to launch an investigation at the same time as an ongoing criminal investigation?

Mr Sterling: I am not aware of any strict parallels. I cannot think of any similar circumstances. To be honest, I have not asked about or looked into this.

Mr Wells: I notice that Mr Ramsey says that he was not around when any of this happened. Would it not have been more useful to bring an official who was?

Mr Sterling: We are in the middle of the holiday period, so some people are on leave, including some who are overseas. As I explained, some of the key people who were involved in this are now in other Departments as well.

Mr Wells: Could they not be recalled?

Mr Sterling: Again, I know of at least one key person who is working in another Department and is on leave.

Mr Wells: "Leave" is a term I hate, because of the military connotation. Was the fact that members of your staff were on holiday last week the problem with appearing at the Committee?

Mr Sterling: Can I clarify the non-appearance last week? I am not going to make a big deal of this, but, Chair, your note to the Minister offered the Department the opportunity to appear either last week or this week. So, for a variety of reasons, we chose this week. I returned from leave last Wednesday, and the Committee was meeting on Thursday, so I was not briefed on this issue. Other key people were off. So, it was not going to be easy for us to send anybody who could provide a meaningful contribution to the Committee last Thursday. We wrote to the Committee last Wednesday, advising that we would be willing to come here this week.

The Chairperson (Mr McKay): OK, thank you. Are there any other members? You are content at this point.

David, in terms of the 149 or 150 pages of papers that have been sent, obviously we have requested copies of all departmental and ministerial papers relating to NAMA, including the sale of the NAMA property portfolio in the North. Page 5 notes:

"In line with the Committee's request, information which does not relate specifically to NAMA, including the sale of the ... loan portfolio, has been removed".

That contradicts what you say in the opening paragraph.

Mr Sterling: Sorry, what are you referring to, Chair?

The Chairperson (Mr McKay): We are seeking clarification as to whether information relating to the sale of the loan portfolio has been removed?

Mr A Ramsey: Do you mean information not relating to NAMA or including the sale of the loan book? Is it the cover note that you are quoting from?

The Chairperson (Mr McKay): It is the first paragraph of the letter from the departmental Assembly liaison officer (DALO). Note 2 is a little bit confusing. It says:

"information which does not relate specifically to NAMA, including the sale of the ... loan portfolio, has been removed/redacted."

I am seeking clarification that the information that we are seeking in regard to the loan portfolio will be included.

Mr A Ramsey: That is correct.

Mr Sterling: Sorry, that is just a mistake. The redactions relate to issues that are nothing to do with the sale of NAMA assets etc.

The Chairperson (Mr McKay): How much more material should we expect to get? Will we have it well in advance of the next meeting in two weeks' time?

Mr Sterling: We will make sure that you get it in advance of the next meeting in two weeks' time. I could not say what volume of material there is.

Mr A Ramsey: You have most of the material at this stage. There may be some information relating to individual borrower cases.

The Chairperson (Mr McKay): Is that information regarding Cerberus? It seems clear that there was a lot of toing and froing between the Department and Cerberus in 2014 and 2015. Has that all been removed?

Mr A Ramsey: That has not been provided at this stage.

The Chairperson (Mr McKay): It will be forthcoming.

Mr A Ramsey: That depends on the legal advice.

The Chairperson (Mr McKay): As the Committee, we are entitled to it, and we should make that clear — OK? If there are conditions on how that is handled, whether in public or private session or whether we require a meeting to discuss how it is handled to ensure that it does not compromise the case, this Committee is still entitled to that information. I advise that you liaise with Committee officials to ensure that we get all the information that we are entitled to. We will handle it appropriately, and we will decide how it is handled. OK?

Mr A Ramsey: OK.

The Chairperson (Mr McKay): Thank you very much.

Mr Sterling: Thank you.