



Northern Ireland
Assembly

Committee for Finance and Personnel

OFFICIAL REPORT (Hansard)

Sale of National Asset Management Agency
Assets in Northern Ireland:
Department of Finance and Personnel

4 November 2015

The Chairperson (Mr McKay): The names of Frank Cushnahan and Richard Pengelly were released: why was the name of this prominent banker not released?

Mr Sterling: Mr Cushnahan's name was released simply because he was subsequently appointed. There was no particular issue with Richard Pengelly, as he was budget director in the Department at the time. As I said when I was with the Committee before, we were not even sure that the person whose name was redacted knew that he had been nominated to the National Asset Management Agency (NAMA). For that reason, we thought that we needed to check with him that he was content for his name to be released.

The Chairperson (Mr McKay): Why would the Minister nominate somebody without telling him?

Mr Sterling: I do not know.

The Chairperson (Mr McKay): Presumably, he was told. The papers are heavily redacted, and I would question whether all the information should have been redacted. We said previously that a better procedure would be for papers to come to the Committee and for the Committee to decide what would be redacted from what we published on the website. That way, we would have an assurance that nothing was being hidden from public view.

Mr Sterling: I am happy to engage with the Committee. I hope that the engagement with the various people will be concluded very quickly and that we will reach a resolution.

The Chairperson (Mr McKay): There is huge public interest in the nominations, so I do not see why a ministerial nomination to the NAMA advisory committee should be in any way hidden from public view.

Mr Sterling: I will take that point on board.

The Chairperson (Mr McKay): You have left in that Mr Frank Cushnahan and the blanked-out name are both well-respected bankers. If you were concerned about the person's identity, why would you leave that in?

Mr Sterling: On the basis of the advice that we got, the only thing that we felt needed to be redacted was the name.

The Chairperson (Mr McKay): One of the names that has been doing the rounds — this is unfair, because it leads to speculation — is Ronnie Hanna. In the absence of clarity, could you rule him out?

Mr Sterling: I will get back to you on that separately.

The Chairperson (Mr McKay): You will respond to us in writing on that. Was anyone encouraged by the Minister, Ministers or the Department to apply directly to the NAMA board — not the advisory committee but the full board — for membership?

Mr Sterling: I am aware only of the three names that were put forward by Minister Wilson at the time. You will have seen that, following my appearance before the Committee on 23 July, I exchanged correspondence with the Department of Finance; the letter and the response are in your pack. In the evidence that you got from the Department of Finance, there was a paper referring to the Northern Ireland advisory committee (NIAC), and the Department made it clear that, under the National Asset Management Agency Act 2009, appointments to the Northern Ireland advisory committee were entirely a decision for the NAMA board. Minister Lenihan received representations regarding the appointment of the two external members of the advisory committee. The Northern Ireland Minister of Finance and Personnel recommended three possible candidates to the Minister, one of whom, Mr Frank Cushnahan, was invited to become a member of the NIAC. Following a declaration of interest in joining the main NAMA board, Mr Brian Rowntree was recommended by the office of the president of Ireland for the NIAC. That is the Department of Finance statement on what actually happened, and it accords entirely with our understanding of it.

The Chairperson (Mr McKay): So the answer to the question is "No. No individuals were encouraged".

Mr Sterling: Yes.

The Chairperson (Mr McKay): OK.

The paper at page 469 — there is another paper at page 483 — states that the Minister agreed to meet someone to discuss NAMA. It says that the discussion will most likely centre on the NAMA plans and their potential impact on the local property sector. The discussion then covers wider issues such as the state of the local economy, the current economic outlook and bank lending conditions. Those are not specific issues about specific properties; it does not seem to come from a developer with self-interest. It seems to be quite clearly about wider policy issues in the Department about NAMA. Why has that individual's name been redacted?

Mr Sterling: I am not sure which paper that is.

The Chairperson (Mr McKay): It is on page 469.

The Committee Clerk: That is in the members' pack, Chair, so the witnesses will not have it.

The Chairperson (Mr McKay): The paper, dated 4 November 2009, is from Michael Brennan to Graham Craig, a special adviser, and Sammy Wilson, and it concerns NAMA. The Ministers agreed to meet an individual or group — I do not know — to discuss NAMA. A meeting was arranged for Thursday 12 November.

Mr Sterling: Yes, I recall that. We are engaging with that individual as well.

The Chairperson (Mr McKay): OK. What is being discussed there is wider policy. Why are these things being hidden from public view? They should be transparent. I am just concerned that the amount of redaction in the papers from the Department is hiding discussions between Ministers and individuals about wider policies around NAMA. In my view, those things should not be hidden from public view.

Mr Sterling: We have redacted stuff that we did not believe was germane to this inquiry, with reference to the inquiry's terms of reference. If you want us to —

The Chairperson (Mr McKay): This is relevant because the individual was having a meeting about NAMA and NAMA policy.

Mr Tony Simpson (Department of Finance and Personnel): When individuals write to the Minister about NAMA, very often they bring their personal experience or the experiences of others to bear. That is why we have taken the approach of engaging with those people before we release any of the information.

The Chairperson (Mr McKay): Why are you only engaging now? Obviously, we requested papers —

Mr Sterling: No, we engaged some time ago. As I say, it has just taken some time to work through all this.

The Chairperson (Mr McKay): How many individuals are you engaging with?

Mr Simpson: In the papers that we have asked the Committee not to release, 17 relate to cases brought by specific individuals or meetings, so it would be in and around that order. There is quite a long process to be gone through to ensure that we abide by all the data protection rules. We first contact the individual to see that we have the right contact details. We ask them to respond to us on that, because we do not want to contact someone who has moved on or changed address. There is quite a process to be gone through before we actually get to the point where we say, "Here is the information that we hold and which you have shared with the Department. What are the issues around releasing it? Would you be content for us to do so?". We are working through that process.

The Chairperson (Mr McKay): Of those you have contacted so far, how many have agreed that their name can be released to the public? I am just trying to establish whether this is just another case of things being held up in the Department.

Mr Simpson: We are not at the point where people have indicated that they would be content for us to release the information, but we have —

The Chairperson (Mr McKay): OK. So you initially contacted those people in the summer, and they are reluctant to allow their names to go into the public domain.

Mr Simpson: We are working through that. Some of them are slightly more complicated due to the fact that they have contacted us through their elected representative. We have then had to go to the elected representative to get the contact details of the individual. I suppose that what I am trying to set out is that there is a bit of a process and we cannot commit people to respond to us within a particular time. We are somewhat at the mercy of people coming back to us as well, but we are following up on this.

The Chairperson (Mr McKay): Where are we with this one?

Mr Simpson: I do not have specific information on where we are, but we are working through it.

The Chairperson (Mr McKay): So, of your 17 cases, you do not know where you are with this one or any of the others.

Mr Simpson: They have all been contacted, and we await replies. We are following up on those replies when we receive them.

The Chairperson (Mr McKay): When did you initially contact this individual?

Mr Simpson: I do not have that specific information, Chair.

The Chairperson (Mr McKay): I am just trying to establish whether you contacted them over the summer or contacted them before you came into the meeting today. These are questions that need to be answered.

Mr Sterling: We will let you know when the contacts were made.

The Chairperson (Mr McKay): OK. When will you let us know?

Mr Sterling: We should have that information with you next week.

The Chairperson (Mr McKay): Definitely next week? Agreements have been made here before, David, with respect, where you have been asked to come back to us the following week and it has not happened. We need an assurance that, whatever is agreed today, the Department will come back to us when it says it will.

Mr Sterling: As I said before, to the best of my ability, I will make sure that you get it next week.

The Chairperson (Mr McKay): At page 483 of members' information is a briefing document for the Department of Finance and Personnel in respect of the NAMA Bill 2009. This, again, is quite interesting. Again, the author's name is blanked out. It goes into a lot of detail about NAMA and banking, and there is reference to Taggart land banks portfolio, the site at Dundonald, and a development company consortium led by the McGinnis group. It goes into a lot of detail around NAMA and its portfolio in the North, and again the name is blanked out. Who was cc'd into this? At the end of this correspondence, there are also a number of redactions. Is that a number of officials or individuals who were also cc'd in? Again, this seems to be important stuff that is being redacted.

Mr Sterling: I need to check the document.

Mr Simpson: What was the date of that, Chair?

The Chairperson (Mr McKay): It is November 2009. There is no specific date on it.

Mr Sterling: Was that the paper —

The Chairperson (Mr McKay): It was a briefing document —

Mr Sterling: Is that the paper that contains somebody's views on NAMA and some of the issues that might arise around the setting up of NAMA?

The Chairperson (Mr McKay): Yes.

Mr Sterling: The redacted name is the name of the author of that paper.

The Chairperson (Mr McKay): After the author signs off and dates the letter, there are 10 lines there. Were 10 other individuals cc'd into a briefing paper for the attention of the Department?

Mr Sterling: No, the bit that is redacted at the end is not a cc list; it is another paragraph that would, again, have created an issue around data protection principles.

The Chairperson (Mr McKay): OK. So, it has been redacted in its entirety.

Mr Sterling: That paragraph has, yes.

The Chairperson (Mr McKay): What is that? Is that a PS? He or she has already signed and dated it.

Mr Sterling: No, the final paragraph sets out the CV of the person involved, so, if we revealed that, we would reveal the name of the person.

The Chairperson (Mr McKay): Again, this is important. A summary of these views on NAMA was sent to the Minister by officials, and that is provided thereafter, for members' attention, on page 491. Do you know where we are with this person and whether he or she would —

Mr Simpson: Again, we have made contact with that individual. He has made an initial response, and we are to meet the person.

The Chairperson (Mr McKay): Would you say that he is cooperating?

Mr Simpson: Well, we have yet to have a discussion with him, but, certainly, the individual is cooperating in that he has responded to our initial correspondence.

The Chairperson (Mr McKay): Just to move us on a bit, in June 2013, Brown Rudnick was in contact with Minister Wilson, and a letter was drafted and sent on the day that the memorandum of understanding (MOU) was sent to Minister Wilson. Were officials involved in the drafting of that letter?

Mr Sterling: No. As the Minister made clear in her letter to you of 9 October, officials were not involved in the drafting of that letter.

The Chairperson (Mr McKay): Why not?

Mr Sterling: Presumably, they were not asked to.

The Chairperson (Mr McKay): OK. Would it be unusual for officials not to be involved in the drafting of such a letter? There do not seem to be that many other examples of where the Minister takes it upon himself or herself to entirely draft a letter and send it to the Minister for Finance in Dublin, in this example, on the same day as the Brown Rudnick letter was received.

Mr Sterling: I did not work for Minister Wilson at the time, but, in my experience, it would not be entirely unusual for a Minister to send a letter that was not drafted by officials. As officials, we are there to provide advice to Ministers, but they are not obliged to ask us for advice, nor are they are obliged to follow it.

The Chairperson (Mr McKay): Did any officials see the letter before it was sent?

Mr Sterling: Not to our knowledge.

The Chairperson (Mr McKay): So here was a letter drafted, typed up and printed by the Minister and sent to the Department of Finance in Dublin without any officials in the Department seeing it. I find that highly unusual. Surely somebody would have seen it.

Mr Sterling: Obviously, staff in the private office would have seen it, but —

The Chairperson (Mr McKay): So staff did see it.

Mr Sterling: Yes, private office staff, but no policy advice was given around the letter; that is my understanding. I understand that you will be seeing Minister Wilson, and you will be able to take this up with him.

The Chairperson (Mr McKay): Yes, but I it would be useful if we had information first on who saw it. I find that unusual, in correspondence of this magnitude, given that it has been viewed as quite influential on the change in direction on the NAMA portfolio. So it is important.

What is the protocol for departmental officials attending meetings with Ministers where departmental business is being conducted?

Mr Sterling: The protocol is that, if a Minister wants advice and support at a meeting, officials will attend. The officials who attend will be those best placed to provide the relevant advice and support.

The Chairperson (Mr McKay): So it is entirely down to the Minister whether officials attend.

Mr Sterling: Yes. Just to be clear, my staff and I are under the direction and control of the Minister; that is the clearly established constitutional position.

The Chairperson (Mr McKay): Obviously, we have a huge quantity of papers concerning meetings, minutes of meetings, notes of calls and so forth. I suppose that three meetings stick out: the meeting with PIMCO in May 2013; the meeting with Minister Noonan in September 2013; and the meeting with Cerberus in the spring of 2014. They seem to be the only meetings where there are no minutes or notes from officials, so officials were not at those meetings. Is that not unusual?

Mr Sterling: Again, I did not work for Minister Wilson; I worked for Minister Hamilton and for a variety of Ministers. They will quite often have meetings without officials in attendance. There is nothing terribly unusual about that.

The Chairperson (Mr McKay): Were officials told about those meetings? Were they told why they were not been included, given that those were the only three examples of such meetings that we have?

Mr Sterling: To the best of my knowledge, no.

The Chairperson (Mr McKay): They were not told. Conference calls took place. Obviously, there is information that is not included here that has been included in a tranche of documentation from NAMA. Is there any reason why no notes or minutes were kept in Belfast but we have notification that there is a record of this on the NAMA side? Why is there no record on the DFP side, but NAMA has taken note of these important meetings?

Mr Sterling: Obviously, it is up to NAMA to take whatever notes it sees fit. This whole process has identified that we probably need to be more consistent in our approach to taking notes of meetings. I actually agreed with the Minister recently that we will ensure that notes are taken of all meetings, simply recording who attended, what was discussed and what was agreed.

The Chairperson (Mr McKay): What conference calls are you aware of that took place in regard to NAMA and Project Eagle?

Mr Sterling: The only conference calls we are aware of are those referred to in the papers that we have given to you.

The Chairperson (Mr McKay): How many conference calls took place involving the Minister of Finance and personnel and NAMA?

Mr Sterling: I do not have that information.

The Chairperson (Mr McKay): Surely you would know that. That is what has been gone over in a lot of detail in recent months, so surely, even from reading the newspapers, you know what —

Mr Sterling: Conference calls between —

The Chairperson (Mr McKay): Between the Minister and NAMA.

Mr Sterling: I could not give you a number.

The Chairperson (Mr McKay): Also those between the Minister and departmental officials in Dublin. What are you aware of?

Mr Sterling: We have records of engagements. We have records of the meetings that took place, but I would need to check whether we have a record of all of the conference calls that took place. It depends on your definition of conference calls: if a Minister picks up the phone and speaks to somebody, is that a conference call? That is the issue.

The Chairperson (Mr McKay): Obviously, NAMA took a note of those. I presume that you have those papers.

Mr Sterling: Yes, we have access to those papers, through the Committee actually.

The Chairperson (Mr McKay): Given the fact that you have your papers, our papers and papers from other sources, what conference calls are you aware of?

Mr Sterling: We are aware of the conference calls that have been recorded in the NAMA papers and our papers.

The Chairperson (Mr McKay): Were any officials present for those conference calls, or were they just direct conference calls with the Minister and nobody else?

Mr Sterling: I cannot answer that because I do not know what calls took place at ministerial level.

The Chairperson (Mr McKay): Surely you should have checked that.

Mr Sterling: We can check the records of those that took place, yes.

The Chairperson (Mr McKay): Will you check that and come back to us again next week?

Mr Sterling: Yes.

The Chairperson (Mr McKay): My final question is on the concerns raised by the Finance and Personnel Minister and the First Minister around the NAMA handling of assets. Obviously, there has been a change in the Department's position within that time period. The initial position, of course, was to oppose any potential fire sale. That changed towards the end of this timeline. Was any official advice provided by the Department to the Minister to support that change in the ministerial position?

Mr Sterling: I do not think the position ever changed. We — the Minister and officials — have always been against a fire sale. By a fire sale I mean the dumping of assets at an artificially low rate in a way that would depress the property market. Our position throughout the process has remained consistent that there should not be a fire sale.

The Chairperson (Mr McKay): But, obviously, Minister Hamilton pushed for a closed sale to PIMCO. Was that in line with advice that he had received from officials?

Mr Sterling: Whether it is fair to say that Minister Hamilton pushed for a sale you would need to discuss with Minister Hamilton.

The Chairperson (Mr McKay): Let us put it this way: on the argument that there should be a closed sale to PIMCO, in this particular example, would that have been in line in any way — I do not care who put the argument — with advice that was coming from official level?

Mr Sterling: We were not asked to give advice on whether a closed sale would or would not have been a good thing. What we were very cognisant of at the time was the condition of the economy in general. We were particularly interested in banking conditions at the time. There was a clear interest on the part of the Department of Finance and Personnel and the Department of Enterprise, Trade and Investment, which is where I was working at the time, in access to finance. That was a major preoccupation for the Ministers of both those Departments. We were tracking the extent to which companies were able to access finance, and we were interested in the property market. It is clear that, if you look at the development of the economy from, say, 2011-12 through to 2013-14, there was recovery at the general level. There was also recovery in the property market. Those conditions created a new environment in which those deliberations by NAMA took place.

The Chairperson (Mr McKay): In the email that you sent to Bill Pauley on 13 February 2014, you asked whether he had any insights into an attached press article: what was that press article around?

Mr Sterling: I believe it was around speculation on the possible PIMCO sale.

The Chairperson (Mr McKay): You asked in the email:

"Is NAMA free to sell the ... property loan portfolio if it wished to ...? Could the Executive influence that in any way, other than through political pressure? If sold, would there be any constraints on the way a financial institution might dispose of assets within the portfolio?"

Was that change in position or that development a surprise to you at that time?

Mr Sterling: Again, the email you refer to was one that I sent when I was in DETI, so I was not aware that there were any proposals around a sale of the Northern Ireland portfolio at that stage, hence my enquiry to my colleague Bill Pauley.

The Chairperson (Mr McKay): What was the reason for the email? What were your concerns, broadly, at that time?

Mr Sterling: As I say, I was unaware of this and was just looking to establish whether DFP was aware of it. The email sets out a couple of questions that I asked.

Mr D Bradley: Good morning. The initial fear around the NAMA portfolio was that there would be a fire sale that could make the Northern Ireland property market very unstable. We then move to a position where it seemed to be all right for a closed sale to take place. Did the Department have any form of objective or independent financial assessment done to back up the view that then was the right time to make the sale?

Mr Sterling: The sale of the portfolio was clearly a matter for NAMA to determine.

Mr D Bradley: I understand that, but the Department was of one view that a fire sale would undermine the Northern Ireland property market, then it got to a view that not only was it acceptable to have a closed sale but it was a good thing. Was that view based on any objective or independent financial assessment that was available to the Department or that the Department carried out?

Mr Sterling: I am not aware that any assessment was carried out of whether the sale of the loan portfolio would be a good or bad thing at the time.

Mr D Bradley: What, then, was the ministerial view that it would be a good thing based on? Was it just something that came to his mind, or was there any objective or independent evidence to support his view?

Mr Sterling: You are seeing the Minister at some stage: that is a matter you would need to take up with the Minister.

Mr D Bradley: Right, but you are sure that the Department did not commission any form of study in order to test the market, as it were, and ensure that this approach would not in any way undermine the Northern Ireland economy or property market.

Mr Sterling: To the best of my knowledge, no work was done specifically on that point, although I emphasise again that DETI and DFP would have been tracking general trends in the economy as a whole.

Mr D Bradley: You are not aware what the Minister based his view on that it was the right time to do the deal and that Project Eagle was a good deal.

Mr Sterling: No.

Mr D Bradley: According to what we have read in various papers, Cerberus gave reassurances that it would behave in a fair way towards people after it had acquired the portfolio. Is that right?

Mr Sterling: I am not sure what assurances would have been given.

Mr D Bradley: Statements were made by the First Minister, the deputy First Minister and Minister Hamilton that assurances or guarantees had been given that Cerberus would treat its future debtors in a fair and equitable manner.

Mr Sterling: The sale was clearly a commercial transaction between NAMA and Cerberus. I am not privy to all the conditions that were attached to that, but I am aware of certain public statements made at the time that Cerberus would deal with debtors in a sensitive way. We, at departmental level, have had meetings with Cerberus during which we have reflected concerns that have been raised with us by individuals.

Mr D Bradley: That is the point that I was going to make. It seems that, in practice, regardless of the personal guarantees, many of the debtors experienced a different side of Cerberus whereby threats were made that loans would be called in and so forth. That put quite a bit of pressure on individual debtors, which was at odds with the reassuring statements that had been made before the deal was finalised. You are aware that this is reflected in correspondence that your Department has received.

Mr Sterling: I need to make a point that I made before: DFP has no prudential regulatory responsibilities. We have no powers in this area.

Mr D Bradley: I am not suggesting that you have.

Mr Sterling: The Financial Conduct Authority is the regulator.

Mr D Bradley: What I am saying is that there seems to be quite a variance between the reassurances and guarantees that some members of our Executive were given and how things panned out after the deal was done. You are saying that correspondence from debtors to your Department reflects that.

Mr Sterling: We have had correspondence from debtors and from elected representatives indicating that they are not happy with how debtors have been treated by Cerberus. However, I am not sure that we can generalise from those cases. Clearly, quite a number of debtors have managed to exit from Cerberus in a way that they would say has been satisfactory. I would be reluctant to generalise and say whether things generally have been good or bad. David, do you want to say anything about the discussions that you have had with Cerberus?

Mr Simpson: I have met an advisor to Cerberus on a number of occasions since the acquisition. We use those meetings as an opportunity, first, for Cerberus to give the Department an update on where it is as it works through its portfolio and, secondly, for the Department to share any concerns that have been brought to our attention. As David said, a number of concerns have been brought to our attention, but not many; it would be in low single digits. We are not in a position to make an overall assessment. As the permanent secretary said, we have no responsibility, authority or overall

information to make that assessment. We can go only on the information that is brought to us, and we pass the cases on to Cerberus.

Mr D Bradley: Without asking you to breach any confidences, I wish to know, when you have brought those complaints to Cerberus at meetings with it, what has the response been?

Mr Simpson: Given confidentiality, Cerberus will not reveal to us the specifics of the case. Therefore, if an individual comes to us and raises a case, the Department will advise that individual that we will raise it with Cerberus, and Cerberus will then liaise directly with the individuals concerned.

Mr D Bradley: You have no other form of feedback from Cerberus about whether it has listened, taken a different approach or whatever.

Mr Simpson: No, we ask Cerberus to investigate. We advise the debtor in question that we have raised their correspondence with Cerberus. It is a matter of whether debtors then come back to us to indicate whether there has been any outcome with which they are satisfied.

Mr D Bradley: Have any people come back to say that they are either satisfied or dissatisfied with the response?

Mr Simpson: No, not that I am aware of.

Mr Ó Muilleoir: Gentlemen, it is good to see you. We do not see you enough. I say that every time that you come in, and then you disappear for two months. Hopefully, we will have a regular exchange on these matters.

Mr Sterling: I was here in September.

Mr Ó Muilleoir: That is true. That is two months ago.

To follow on from what Mr Bradley was saying, the Minister says that her officials meet Cerberus regularly. In fact, you are not meeting Cerberus but an adviser to Cerberus. I do not know whether it is Ronnie Kells, who is as honest as the day is long. An adviser is not Cerberus.

Mr Sterling: Yes.

Mr Ó Muilleoir: Who is that adviser?

Mr Sterling: It is Ronnie Kells.

Mr Ó Muilleoir: That is not meeting Cerberus in any shape or fashion. Cerberus is an entity. It is an equity fund or a vulture fund. It has employees. As I said before, I have met Cerberus. Therefore, that is inaccurate. I am not at all saying that you are stating it, Tony, but the Minister stated that our officials regularly meet Cerberus. I think that you should meet Cerberus, but meeting an adviser to Cerberus is not the same thing. Do you accept that?

Mr Simpson: It is a channel of communication with the firm. There is a distinction there as to whether he is a direct employee of Cerberus, but it is a direct channel of communication that we have with Cerberus and its agents on the ground in Northern Ireland, in the form of Capita, which manages most of the Cerberus loan book.

Mr Ó Muilleoir: With all due respect, that is not meeting Cerberus. We need to meet Cerberus. I was going to ask whether you had raised with Cerberus the entire scandal that we are in the middle of, but it would obviously be ridiculous to raise that with Mr Kells.

We have to say to the Minister that we need to have regular meetings with Cerberus so that we are talking to it about, for example, developers who believe that they have been treated wrongly and people who believe that they have been put out of business by Cerberus. Those are not matters, in my view, that you would discuss with an adviser — a messenger, with all due respect to Mr Kells, who I am sure is very good at what he does. However, he is not Cerberus, and I really think that we should do something about that.

Your opinion as civil servants on Mr Bradley's point would be welcome. He is saying that the Government here, led by the Finance Minister, were against the sale of the NAMA assets north of the border. They then had a road to Damascus moment and said, "No, now we are in favour of it. Let's sell them". At one point, in fact, they said that a closed sale might be good. As we know now, that coincides exactly with Mr Coulter and Mr Cushnahan trying to sell — to hawk — the portfolio. Of course, as we also know, they were both in line for a large payment had that succeeded. It is a volte-face from being against the sell to being for it. People have made cogent arguments for that dramatic, overnight change, although you have not made them today because it is perhaps not your place. However, do you not accept that it would have been appropriate for Ministers to seek advice from officials before they adopted a line that we know now was being promoted by people set to gain from the sale?

Mr Sterling: There are a couple of points there. First, if there is any evidence that anybody was advancing a particular line to further his own purposes or to gain something, that evidence should be brought to the National Crime Agency (NCA) or the PSNI, which are investigating these matters.

As far as the rationale for the sale goes, in your evidence pack, you have the view set out by the NAMA CEO, Brendan McDonagh, to the Public Accounts Committee (PAC) in Dublin on 9 July. It sets out in some detail why NAMA believes that the time was right to do that. I am happy to go through the various points, but he is essentially saying that the make-up of the debt portfolio in Northern Ireland was such that there were a lot of small debts. The economy here was recovering less quickly than that in Ireland, the rest of the UK and, indeed, elsewhere. As I say, there were a lot of small debts rather than larger debts. For a combination of those reasons, it made sense to NAMA, it is claiming, to sell off the portfolio as a single lot.

Mr Ó Muilleoir: You make a good case for NAMA, but I was asking about the Government here. Why did the Government here change their mind? Up until now, they have not been very cognisant of what NAMA wanted or did not want. Why did the Government here change their mind without asking for advice from — I was going to say "highly paid officials", but I will not go there — professional and highly competent officials? The Government here did change their mind. Surely they were influenced by NAMA.

Mr Sterling: You say that the Government changed their mind, but we need to be clear: this was a decision that NAMA took. You will be speaking to Ministers. You have already spoken to the First Minister about those issues.

Mr Ó Muilleoir: I will help you, David. You are wrong, because NAMA took the decision in October 2013, when, around that time, it went to the meeting of NAMA's NI advisory committee, on which Mr Cushnahan was sitting. It said, "We are going to sell this portfolio, and we have had an offer", but its decision to sell came after — there is evidence of this, and you have seen the evidence from PIMCO — an effort had been made to sell the portfolio, and after PIMCO had been courted in that regard.

On the decision to sell or market the portfolio, you are asking whether there is any evidence of that. We have the evidence. We have seen the evidence. You have seen the evidence. There is a letter from PIMCO, among other things, that says, "We were approached by Brown Rudnick and told that there will be a success fee to pay to Mr Cushnahan, among others". The letter says that PIMCO was proceeding with that until it was told that it was against US law to do it and it stepped out. Therefore, the evidence exists, and it predates NAMA's decision to sell. The evidence exists that there were people here working to follow one individual line and to sell the entire portfolio. I am saying that the Government changed their mind. The Government were against that, but, coincidentally, as Mr Coulter and Mr Cushnahan started to advance the line of "Let's sell this", the Government did a U-turn. It flip-flopped and said, "OK, let's now support that sale". We know that the Government supported that sale, because the Finance Minister and the First Minister met PIMCO to endorse and encourage that line of action. Do you not accept that?

Mr Sterling: I need to repeat the point that the Department was not involved in the sale; the sale was a matter for NAMA itself. There were clearly discussions with various people around that, but, ultimately, the decision was one for NAMA. If I were to offer a view on the rationale that Mr McDonagh set out to the PAC about the changes in the economy, I would say that the economy was improving, and I could not fundamentally disagree with any of the points that Mr McDonagh set out as his rationale for the sale going ahead at that time.

Mr Ó Muilleoir: I accept that. That was in July of this year. You are not suggesting that the reason that Mr Coulter and Mr Cushnahan wanted to sell the portfolio was that they saw a change in the economic situation rather than because they were going to get £5 million each.

Mr Sterling: I cannot comment on the role of Mr Cushnahan and Mr Coulter.

Mr Ó Muilleoir: Regardless of how we retrofit the situation to say that the economy dictated that we should sell the entire portfolio at that time, the fact is that those who were hawking the portfolio had something to gain from it. You are familiar with the Nolan principles for public life, of course.

Mr Sterling: Yes.

Mr Ó Muilleoir: We are in a situation here in which there was a series of events that are material to the NAMA/Cerberus scandal that happened on which officials were not consulted. We have the Brown Rudnick letter of June 2013 being forwarded to Mr Noonan by Minister Wilson. We have a meeting with PIMCO in Stormont Castle. We have a meeting with Cerberus and a second meeting with Cerberus. In all those meetings, was the Minister acting as the Minister of Finance and Personnel or as a concerned citizen? It is clear that PIMCO and Cerberus thought that they were meeting the NI Government; that is what they say. PIMCO thought that it was being vetted by the NI Government: were they meeting the Government?

Mr Sterling: You would need to take those points up with the Minister when you meet him.

Mr Ó Muilleoir: Surely that is a matter for officials. If the First Minister were meeting on behalf of the Executive, he would have had to inform the Executive and get the consent of the deputy First Minister to get involved in such meetings. As an official, are you saying that the First Minister can go to meetings with PIMCO at which it believes that it is speaking to the NI Government, but was it? You do not know.

Mr Sterling: It really would not be appropriate for me to comment on what happened at those meetings or what role any individual was playing.

Mr Ó Muilleoir: But that is crucial. The Nolan principles talk about openness, integrity and accountability, but those are meetings that Ministers attended. Those attending thought that those Ministers were representing the Government, but they cannot have been, because the First Minister could not have been representing the Executive. He had no authority to represent the Executive at the meetings with PIMCO and Cerberus. You do not think that that contravenes the principles of public life.

Mr Sterling: It is clearly not a matter for me to comment on the actions of the First Minister. I have no locus in that area at all.

Mr Ó Muilleoir: And for the Finance Minister?

Mr Sterling: And for the Finance Minister. Again, that is a matter that you might want to take up with the former Finance Minister.

Mr Ó Muilleoir: If you were advising a Finance Minister who wanted to meet a body involved in trying to do the largest-ever property deal on the island, would you say that it is good just to meet one party involved in that? Ministers did not meet Fortress, only the body for which Mr Coulter and Mr Cushnahan were working.

Mr Sterling: Well, it is hypothetical. I would have to look at it. I am not going to go back over what happened before, but if something —

Mr Ó Muilleoir: It is not hypothetical. What do the principles of public life tell us? Surely they tell us that, if someone wants to buy a huge property portfolio, no Minister should meet just one party to that. Surely they tell us that. Surely that is what the principles of public life are all about.

Mr Sterling: That is a matter that you would take up with a Minister.

Mr Ó Muilleoir: You say that you have learnt from the NAMA/Cerberus scandal. You have learnt that we should perhaps minute more meetings and exchanges. That is what you are saying today.

Mr Sterling: I would not characterise it as a scandal. If investigations subsequently prove that to be the case, so be it.

Mr Ó Muilleoir: What do you call £6 million to the Isle of Man?

Mr Sterling: You have pressed me on that point before. I am here to help you —

Mr Ó Muilleoir: Let us call it a venture. Not an adventure, but a venture. You say that you have learnt from the NAMA/Cerberus venture that you should minute more meetings.

Mr Sterling: Yes. This does not just arise from what we have experienced in regard to this. Generally, it has pointed to the fact that, yes, we probably have not been consistent in the way in which we minute meetings and that we need to be consistent in future.

Mr Ó Muilleoir: Have you learnt anything else?

Mr Sterling: It is probably too early to say. Your inquiry is still very much gathering evidence, and the NCA inquiry is still gathering evidence, as I understand it. I will wait until all of this is concluded.

I genuinely look forward to the advice and recommendations that the Committee may wish to make about what has happened here. If there are things that we can do in future that would be better if a similar circumstance arises, we will be more than happy to take those on board and implement them.

Mr Ó Muilleoir: I accept that, and I am not casting any aspersions on the officials or the Civil Service in this, but surely you have learnt that, if someone is going into a meeting with Ministers and those Ministers are not representing the NI Executive, the Ministers should make that clear. PIMCO should not be going to meetings and thinking that it has just met the Government, and Cerberus should not be going to meetings and thinking that it has just met the Government, when, in fact, they are not meeting the Government, and the people whom they met did not have the authority to speak on behalf on the Government in any shape or form. Surely that is an important learning lesson on openness, integrity and accountability.

Mr Sterling: To be clear, as a general point, I will advise Ministers where I feel that it is appropriate regarding the principles of public life and related matters. I see that as my role.

The Chairperson (Mr McKay): David, following on from Máirtín's last point about minuting of meetings and what we discussed about conference calls, even just to protect the Ministers themselves in future, regardless of what conclusion the Committee might come to, will you undertake to put in place a protocol or guidance so that we can have some assurance that everything is above board?

Mr Sterling: It is a wider issue, not just one for DFP. I have spoken to the head of the Civil Service about it, and we have agreed that we need to look at the general approach taken across all Departments. If there are lessons to be learned from this, it is right that we apply those across all Departments. There are lessons for all Departments.

The Chairperson (Mr McKay): On the papers, there may be issues that we want to come back to you about, especially if some of the redactions are removed. Will you keep in contact with us about the redactions issue, which is quite important?

Mr Sterling: Yes.

Mr Cree: David, the previous time that we talked, you were not able to answer the question, but I will put to you again this morning: what knowledge did the Department have about the payment — suspected, banned, or whatever — of any fee for the Project Eagle sale?

Mr Sterling: We did not have any knowledge.

Mr Cree: You had no knowledge of any fee.

Mr Sterling: No.

Mr Cree: Thank you.

Mr Sterling: Until we learned about it in the media.

The Chairperson (Mr McKay): David and Tony, I thank you both very much again.