



Northern Ireland
Assembly

Committee for Enterprise, Trade and
Investment

OFFICIAL REPORT (Hansard)

Cerberus and Capita: Bell and Company

12 January 2016

NORTHERN IRELAND ASSEMBLY

Committee for Enterprise, Trade and Investment

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Members present for all or part of the proceedings:

Mr Patsy McGlone (Chairperson)
Mr Conor Murphy (Deputy Chairperson)
Mr Steven Agnew
Mr Adrian Cochrane-Watson
Mr Gordon Dunne
Ms Megan Fearon
Mr William Humphrey
Mr Fearghal McKinney
Lord Morrow
Mr Máirtín Ó Muilleoir
Mr Leslie Cree
Mr John McCallister
Mr Daithí McKay
Mr Gary Middleton

Witnesses:

Mr Terry Bell	Bell and Company
Mr Paul Fitzgerald	Bell and Company
Ms Claire McCarragher	Bell and Company
Ms Leah O'Kane	Bell and Company

The Chairperson (Mr McGlone): I welcome from Bell and Company Mr Terry Bell, principal and company director; Ms Claire McCarragher, corporate case manager; Ms Leah O'Kane, case manager; and Mr Paul Fitzgerald, assistant case manager. Thank you for taking the time to write to the Committee about this important issue. I read through your case notes with some interest last night. They confirm to many of us what we have been hearing anecdotally, but you have provided us with the evidence.

We will take some initial comments from you, and we will then open up the meeting to questions from Committee members. You are professionally qualified and will have had legal assistance with this. Do you have permission from your clients to present their cases to us?

Mr Terry Bell (Bell and Company): Yes.

Mr Dunne: Chair, may I clarify why Bell and Company is before this Committee rather than the Finance and Personnel Committee?

The Chairperson (Mr McGlone): Bell and Company wrote to us about the impact on the economy, citing these cases, and we agreed that we would invite them before us. It involved a lot of people and firms, and there are economic implications in the form of job losses. That is why we agreed to have them before us today.

Mr Dunne: Has the Finance and Personnel Committee considered a similar request?

The Chairperson (Mr McGlone): I do not know.

Mr McKay: Not to my knowledge.

Mr Dunne: They have not approached the Finance and Personnel Committee.

The Chairperson (Mr McGlone): I take it that you have not written to the Finance and Personnel Committee yet.

Mr T Bell: No. Claire has a short statement to make that will demonstrate our approach. We wrote seeking a letter that was issued by Cerberus and sent to the First Minister on the National Asset Management Agency (NAMA) sale and how they would conduct themselves. Claire will give a bit more detail in that opening statement, if that is OK, and that will set out the context of our approach. When we requested the letter, we in turn were approached and asked to comment on how we found Cerberus and Capita to be conducting themselves. It was not a case of us saying, "Can we come up and talk to you about this?". After we had applied for the letter, which we received, we were asked to come and give our comments on where Cerberus, Capita and their various subsidiaries are in all of this.

Lord Morrow: Chair, I have a question. How many Committees will now be involved in this? We now have the Committee for Enterprise, Trade and Investment, the Committee for Finance and Personnel and the OFMDFM Committee involved. Who else is likely to be involved?

The Chairperson (Mr McGlone): I honestly do not know.

Lord Morrow: Will this do the rounds of every Committee in the Assembly?

Mr T Bell: Not from our angle.

The Chairperson (Mr McGlone): No, I do not think so, unless there is something of particular relevance or importance to it. It is for the Committee itself to determine whether it discerns evidence that is relevant to its workings.

Mr T Bell: If I may go back to what you were saying, we are here to give you an input, professionally and/or practically, on what has happened on the ground. We work with all banks and other financial institutions. We were asked to say where we were with Cerberus. That is the reason for our attendance.

Lord Morrow: Who asked you that?

Mr T Bell: It is not a case of us coming up here and saying, "Listen to our pleas". That is definitely not the case. Our approach is to give the Committee, in whatever form it takes —

Lord Morrow: Mr Bell, you said that someone said to you, "Please let us know where you are on Cerberus".

Mr T Bell: We were invited here, yes.

Lord Morrow: By?

Ms Claire McCarragher (Bell and Company): Someone from the Committee for Enterprise, Trade and Investment, who also advised that they would invite the Finance and Personnel Committee along, if any of its members wanted to attend. We were asked to give a brief statement following our request.

Once we requested the letter of pledge submitted by Cerberus in April 2014, we gave a short explanation of the backdrop to our request. Following on from that statement, we were asked whether we could come and give more information on the matter.

Lord Morrow: This is not your request for a meeting but somebody else requesting you to come and give your view.

Ms McCarragher: To brief the Committees.

Lord Morrow: Who was that, Chair?

The Chairperson (Mr McGlone): We received information from Bell and Company. I do not know when it was, but it was a wee while back. You wrote to the Committee.

Ms McCarragher: Yes.

The Chairperson (Mr McGlone): The Committee then agreed, on the basis of the issues that you had raised around the economy, the impact on businesses and the potential job losses, to ask you to come and explain matters to us.

Lord Morrow: It was not agreed. You invited them: is that right?

The Chairperson (Mr McGlone): Yes, the Committee did.

Lord Morrow: There is a distinct difference between agreeing something and inviting someone to come. I am learning only now that these folk have been invited here to give a view. It was not that they wrote in and said, "We have some views, and we would like you to hear what we have to say". That is not how it was. They were invited by this Committee. Who decided to bring in the Finance and Personnel Committee? Maybe you should have brought in the OFMDFM Committee and, for all I know, the Environment Committee. Who decided that?

The Chairperson (Mr McGlone): The Committee decided to invite Bell and Company.

Lord Morrow: This Committee.

The Chairperson (Mr McGlone): Yes, this Committee. Maurice, you may not have been here at the time. I am sorry for the wee bit of confusion. We received information from Bell and Company a while back. I am not sure of the date. The Committee looked at it and said that there were issues to do with the economy, businesses and jobs. We decided to hear from Bell and Company. It may have been a wee bit before your time.

Lord Morrow: This is the ETI Committee, with the Finance and Personnel Committee invited to it, with the Chair of the Finance Committee co-chairing the meeting.

The Chairperson (Mr McGlone): We agreed that on 24 November, for your information. Sorry, what is your point, Maurice?

Lord Morrow: This is an ETI Committee meeting, with members of the Finance and Personnel Committee invited and its Chair co-chairing.

The Chairperson (Mr McGlone): No.

Lord Morrow: Why is he sitting there, then?

The Chairperson (Mr McGlone): This meeting today, as I outlined, is a meeting of the Enterprise, Trade and Investment Committee. We are hosting the meeting. Principally and uppermost, that is what it is, but, because there are ongoing matters associated, we thought that, out of courtesy, the best thing to do would be to notify the Finance and Personnel Committee, rather than us doing something over here, as we are often accused of working in silos around this place. As there was business being conducted elsewhere by another Committee, we informed its members so that, if they

wanted, they could attend. We then decided today to give them permission, if they so wish, to ask questions.

Lord Morrow: What about the Chair's position? He is sitting beside you; I am sure that you have noticed that.

The Chairperson (Mr McGlone): I noticed it earlier on, Maurice.

Lord Morrow: What is his role?

Mr Cree: He is a guest.

The Chairperson (Mr McGlone): He is Chair of the Finance and Personnel Committee.

Lord Morrow: Should he not be sitting down here?

The Chairperson (Mr McGlone): He can sit wherever he wants.

Lord Morrow: He has decided to sit there.

The Chairperson (Mr McGlone): We are getting tied up in knots.

Mr Cree: Let us get on with it, Chair.

Mr Agnew: Please.

Lord Morrow: I do not think that we are, Chair. There is an issue here, but, anyway, let us see how the matter develops.

The Chairperson (Mr McGlone): This format is in line with good practice and has been used by other Committees. Indeed, later today, we will deal with the Going for Growth strategy in a meeting with the Agriculture and Rural Development Committee at which we will discuss issues material to that.

I am not working to another agenda by any means. There are problems here, and I am picking them up anecdotally from constituents. I just want to hear from the professional practitioners.

Lord Morrow: Let me be quite clear. There is good practice. Good practice is often where there is a joint effort by two Committees, and I have some experience of that; namely, with the Justice Committee and the Health Committee. That was a joint effort by both Committees, but this is not.

The Chairperson (Mr McGlone): That was an Ad Hoc Committee.

Lord Morrow: We have the Chair of the Finance and Personnel Committee co-chairing today, but anyway.

The Chairperson (Mr McGlone): He is not co-chairing.

Lord Morrow: Why is he sitting there, then?

The Chairperson (Mr McGlone): He can sit wherever he likes.

Mr Agnew: We can rearrange the furniture, but the ship is sinking.

The Chairperson (Mr McGlone): We have probably spent enough time on this. We need to get into the real issues that concern people — they certainly concern me — which are whether people will lose their job and be put out on the street as a result of the difficulties that they are having with Cerberus and the inordinate pressure that Cerberus is putting on families and people. Last night, I read about a man whose father had just died and the pressure that Cerberus is putting on that family. That is unacceptable.

I really want to hear from you. You are the seasoned practitioners and professionals. You are picking up on the human face of this. It is why we are here: to try to sort people out and to help them in their difficult times. Please continue.

Mr T Bell: Claire has a short statement to make. Hopefully, it will give you the context of where we think we are and of the problems, situations and issues that we face going forward.

Ms McCarragher: First and foremost, our attendance here today is to discuss the letter of pledge that has been provided to our office by the First Minister's office, the contents of which have been provided. We have been called before the Committee to discuss the current goings-on with Cerberus, specifically over the Ulster Bank loan sale.

We wish to highlight the point that our intention is not, as has been reported, to criticise Cerberus; rather, it is to highlight the issues that borrowers currently face and to try to establish a clear, open and constructive line of communication between all parties to ensure that there is progress and movement, thus allowing all parties to draw a final conclusion and prevent the development of a stagnant economy.

I refer you to the letter of pledge issued to the First Minister's office on 25 March 2014 by Cerberus on the NAMA loan sale. It would be fair and reasonable to assume, however, that the letter of pledge is general and that the same principles apply in any loan-acquiring event. The NAMA chairman, Frank Daly, and its chief executive officer, Brendan McDonagh, commenting on the sale of the Project Eagle loan portfolio to Cerberus, said:

"NAMA management of this portfolio has been measured and supportive taking into consideration the particular circumstances in the Northern Ireland economy. We are assured by Cerberus that they will adopt a similar approach."

We have, however, identified many instances in which Cerberus's actions have directly contradicted the way in which it has pledged to address local, smaller businesses and individuals upon loan acquirement to various local bodies. Referring again to the letter of pledge, we wish to highlight point 3, which is of ultimate importance to our discussions today. My colleague Leah O'Kane will read it out at the end of this statement.

We see it as imperative that we notify and obtain the support of both the Committee for Enterprise, Trade and Investment and the Committee for Finance and Personnel. We feel that it is imperative that we bring to your attention the hardships, difficulties and obstacles that your citizens are experiencing, which could be avoided if everyone was to come around a table to discuss matters practically, realistically and professionally. That is not solely our perception; rather, it is a perception that is shared by other leading professional firms and business colleagues, including Royal Institution of Chartered Surveyors-registered valuers, accountants and solicitors, all of whom have attempted to deal with these bodies and have experienced similar frustration.

There are some instances of accounts still being managed by the Ulster Bank. An individual who makes representations on their own behalf outlining their proposed steps to move forward in order to reach a consensual agreement and bring matters to an ultimate conclusion must make their submissions to the Ulster Bank, which then provides same to Capita Asset Services, which provides same to Cerberus, which, in turn, finally provides same to the relevant subsidiary company; for example, Promontoria (Aran) Ltd or Promontoria (Ram) Ltd.

As well as that, once a substantiated submission is made to Cerberus, which usually incorporates a sworn statement of assets and liabilities and valuation reports conducted by RICS-registered valuers, there have been many instances in which we have been told that the valuation supposedly obtained by Cerberus shows that the value of the security held will cover the level of indebtedness in full. That directly contradicts what our clients have been advised by the experts that they have instructed, such as RICS-registered valuers, whose consideration very often is that the security assigned equates to only a small percentage of what is owed. Valuation reports, however, are being entirely disregarded.

In our brief summary, you will note that we have outlined that we have investigated and are educated on the psychology of debt so as to ensure that we have profound insight and understanding of the ramifications and implications of financial pressures on those who are being pursued for moneys owed. You will note that we have highlighted the fact that a recent summary has shown that 100% of a cross section of borrowers interviewed admitted to having experienced suicidal thoughts as a result

of their financial pressures. We can confirm that our client's wife suffered from a stress-induced illness as a result of the financial pressures that she faced. Although that occurred prior to the Ulster Bank loan sale, it clearly demonstrated that the mental and physical impact that financial pressure has on an individual is there and must be taken into consideration.

Taking only the eight case studies that have been presented to you, we can confirm that around 140 jobs are at risk. Local people and businesses are trying to carry on with their daily operation and employment yet are living under the eternal threat that receivers could be appointed at any instant unless they meet unreasonable and unrealistic demands; for example, paying liabilities in full or paying a significant lump sum in a short period. If those threats of receivership are followed through, a significant number of people will be left jobless, and that will have a knock-on effect on families', customers' and individuals' ability to pay their mortgages and household expenses. Furthermore, many local and renowned businesses that have been trading successfully for, in many cases, more than a quarter of a century will be put out of operation. Again, that will have a knock-on effect on their customers and clients.

If action is not taken or if Cerberus does not change the approach that has been adopted, that will only result in an influx of individuals proceeding with personal bankruptcies; a significant increase in the unemployment rate that will result in individuals being dependent on state benefits; and a significant and detrimental increase in properties being put on the open market and achieving a much smaller amount than the current market value, which will have a knock-on effect on the value of surrounding residential and buy-to-let properties.

In previous instances, the direct and expressed support and presence of local Ministers and MLAs has proven more than helpful in driving matters through to a final conclusion with other lending institutions and creditors. As a result of that, we respectfully ask for the commitment of both Committees to assist local businesses, individuals, employees and families. A meeting with Cerberus to discuss its overall agenda, transparency in its actions and decision-making process, the time frame that it is working to and what it ultimately wishes to achieve could prove most beneficial in this instance.

My colleague Leah will now read out point 3 of the letter of pledge that has been referred to.

Ms Leah O'Kane (Bell and Company): Good morning, ladies and gentlemen. If you do not have a copy of the letter *[Interruption.]*—

The Chairperson (Mr McGlone): Excuse me, but somebody's mobile must be in proximity to one of the microphones.

It seems to have stopped now. Please continue.

Ms O'Kane: If anyone does not have a copy of the letter of pledge, I have a few copies here.

Lord Morrow: That would be useful.

The Chairperson (Mr McGlone): Which letter?

Ms O'Kane: It is the letter of pledge to the First Minister from Cerberus.

The Chairperson (Mr McGlone): Yes, that is the one at page 25 in our documents. It is dated 25 March 2014.

Mr T Bell: These are the principles that set out how Cerberus was going to conduct itself in respect of the NAMA loans. It provides the backdrop and shows where Cerberus committed to the way in which it would conduct itself over the loan purchases and how it would treat the debtors in those cases.

Ms O'Kane: I draw your attention to point 3 of that letter:

"Many of the loans which form part of the Loan Book are secured by either corporate and/or personal guarantees given by certain shareholders or directors of the underlying Borrowers or an individual Borrower in their personal capacity. Most of the guarantors are based in Northern Ireland. The existence of such guarantees may be impeding the development of new business ventures and new investment in their current businesses as the guarantors may have difficulty

raising capital or committing existing resources while such guarantees remain under threat of being called and enforced by NAMA.

Cerberus will release personal and corporate guarantees as a key part of consensual workout plans with cooperative borrowers.

Cerberus' underwriting of the Loan Book has not, to date, included the value of any assets other than the direct collateral assets securing the loans, and as mentioned above we would be willing to waive guarantees for cooperative borrowers who agree to execute a consensual workout plan. Assuming the applicable borrowers cooperate in good faith in connection with such a workout plan and their agreement regarding a consensual restructuring transaction, any and all contingent liabilities and/or personal guarantees from the Borrowers would then be released in accordance with the terms of the plan. Consequently, only the Assets which are the principal subject or collateral for the underlying debt would be retained as security. The existing guarantees would be released so they would no longer be an impediment to borrowers or grantors from undertaking new business ventures."

We will now take any questions that you may have on the statement and the documents provided.

The Chairperson (Mr McGlone): OK. That is your initial bit. As I read through the paper, aside from the personal issues and difficulties associated with the pressure that people are being put under, I found that the common thread running through this is non-acceptance of valuations. I have a suspicion that people have a game plan, but perhaps you can tell me what your idea is of the game plan here. What is their strategy?

Mr T Bell: It is difficult to determine that, in that there is no transparency. A client is asked to present everything, which we do. We provide, as Claire mentioned, the sworn asset and liability statements, chapter and verse, and income reviews. A lot of documentation comes through. As a riposte, we get, "No that is not the value. We see this, and we see that", but there is no documentary evidence provided to support that. There is no transparency back. Some of the submissions are quite substantial, but, very often, we get a three- or four-line email saying, "No. We see further value and require a 100% repayment in this matter".

Ms McCarragher: We have requested confirmation of what Cerberus's valuation is based on, because, when we make submissions to Capita Asset Services or the Ulster Bank, we provide valuation reports conducted by a RICS-registered valuer, which go into full detail. For example, if it is a business, the report will go into the background of the business and why it has come to the value that it has assigned. Therefore, Cerberus is given chapter and verse.

By way of another example, for one of the case studies that was presented to you, we provided quite a lengthy valuation report conducted by a valuer. As Cerberus refuted the valuation that was assigned to the property, I provided it with four pages of comparable properties in the local area, which showed that businesses such as hotels were selling at a much smaller amount even than the value assigned to the property by our client's valuer, and it was not accepted. To every submission that is made and has been substantiated in full we receive a one-line reply, which states that the proposal has been rejected and that they will not consider anything other than full repayment.

The Chairperson (Mr McGlone): I have been in not dissimilar situations to what you are talking about, where there are two sets of valuations, but you can compare and contrast the two, and maybe somebody has looked at one aspect of a business or property and enhanced its valuation a bit or depreciated it a bit. Is there no governing body that you can turn to and say, "We are really not getting anywhere here"?

Mr T Bell: We are not even offered the opportunity of sight of a valuation.

The Chairperson (Mr McGlone): Yes, I saw that.

Mr T Bell: In line with your comment, you are not sure whether you are comparing like with like. Very often, there will be issues with a property that are not picked up on. We had an instance recently — not in this case — in which two valuers were at complete loggerheads, but one went off on the wrong tangent and we had to bring him back, unfortunately, and it was quite a protracted case. You need that transparency to be able to discuss it. A three-line email is just not adequate. This is people's

lives. You cannot say, "No. We do not think that that is right" and not support that assertion, not to my mind anyway.

The Chairperson (Mr McGlone): My point is that, aside from what it is doing, Cerberus has said that it has used valuers. Now, whether it has or not or whether somebody is just plucking figures out of the air we do not know, because you cannot get access to that information. There should be a governing body of district valuers that can be instructed to look at the processes that are being used, a bit like in banking or anything else. Is there any method whereby you can refer that lack of valuation or lack of transparency in a valuation?

Mr T Bell: If there are two contrasting valuations, usually there is provision in an agreement whereby you would say, "OK, we have two parties at loggerheads". Very often, if it involves a lease, for instance, the chairman of the Institution of Chartered Surveyors would be appointed to oversee that situation and take a decision. However, if there is not transparency and openness on the actual thought process and/or the decision for that rejection, there is no argument to be had.

Ms McCarragher: We have also suggested that the two experts meet to discuss both valuations. We suggest that in nearly every instance where they revisit their valuation and it is substantially higher.

Another concern is that we have valuation reports, and what they are coming back to advise is that their valuations are substantially higher and, more than often, the comment is that the value of the security will pay the indebtedness in full, which, in most instances, is entirely incorrect. In most instances, when they come back to advise that they disagree with the valuers, we advise them that we can suggest a meeting of the experts. They will not consent to that whatsoever and have not done so to date. We would then provide them with additional information or an additional letter from the valuer. In some instances, we provide the backdrop of the financial institution that they are working on, information on whether they are on the panel of agents and information on why their valuation reports should be considered. Again, we get nothing back other than that their value is higher than that assigned by the instructed valuer.

Mr T Bell: The backdrop to all this is that they have bought a distressed, non-performing loan book. Everybody knows that. I am definitely big and ugly enough to realise that. That is what they purchased, but there is some aspiration and desire to get back to that value. This is not just our frustration; it is shared by many professional firms, particularly across Belfast and Derry/Londonderry. So, as I said at the beginning, this is what is being experienced across the board.

The Chairperson (Mr McGlone): What is the scale of the problem with yourselves? You have cited seven or eight examples of problematic ones. How many live cases do you have in this process through Cerberus? Secondly, have there been any cases in which they have displayed any modicum of reasonableness in terms of resolution or trying to arrive at some accommodation on some of the difficulties that your clients have?

Mr T Bell: We have about 15 cases directly with Cerberus at the moment and, as yet, there has been no conclusion. We have one case that could get to a conclusion in that we are talking about an end figure, but it is a ridiculous end figure; it is beyond crazy. That is where we are.

That element of Cerberus is a small part of what we do. We have gone through the process and worked with all banks right across the board. Again, this is Cerberus fairly early in their pitch. We do not expect them to offer up their tactics on how they are going to do this, but there are a lot of unknowns. We have not addressed the pressure that our clients and others are under, but they have been through five years of this already. They have been through Ulster Bank in whatever guise that took.

There are some comments that are not very good in some of this. They do have the right to enforcement; they are told that and we know that, but these people have been through a fair bit already. All that is being asked for is the ability to have an open conversation and some transparency.

The Chairperson (Mr McGlone): You referred to 160 jobs that are potentially at risk. Are those across a range of sectors or are they in sectors that are particularly vulnerable economically?

Mr T Bell: There are a few low-pay sectors, for instance. I do not want to go into too much detail but there are quite a few minimum wage people in there as well as skilled people. There is a spread across the board, but it is mainly people who are a bit closer to the minimum wage.

The Chairperson (Mr McGlone): Without going too much into individual cases, you, as practitioners, see that, with some accommodation, these firms could be steadied up, kept on a stable footing and come out the other end as a practical and good working business.

Mr T Bell: Absolutely. It is not just about forgiveness; it is about ensuring that you have a business that can go forward with sustainable debt. As Claire said, we visited Stormont before with another client that had, I think, about 100 employees, and the input from here was very good. It gave a bit of gravitas to what was being discussed. I think that is very important. We are relatively small fry in this. This is being compounded across Northern Ireland and into the South, for sure. It goes back to the unknown. It is a terrible thing. People have had five years of this, and then to have — Cerberus has a job to do, but there are other ways of doing it, we suggest.

The Chairperson (Mr McGlone): What do you see as, not the solution, but a better way of doing things? How do you see an Assembly Committee or Department encouraging Cerberus to come forth?

Mr T Bell: The letter of pledge set out that it was for the NAMA arrangement, and there would have been other arrangements from that. You might suggest that it is almost one law for a certain type of borrower, and then you have the smaller and medium-sized ones who are under more pressure than anyone. You are looking for a consistent approach, going back. The figures are out there. They paid 20% to 30% for these loans; whatever the figure might be. Yes, every case is different. Get a return on your money by all means. We have been in meetings where we have been told at the beginning, "This is a quick process", but, here we are, six months later, and it is everybody, not just us. I keep reiterating that we have not come here to bash Cerberus. People are not getting anything through, and nobody knows what way it will go. If the letter of pledge were adopted across the board, Cerberus, I am pretty sure, would make a very good return anyway, without the torture.

The Chairperson (Mr McGlone): Ultimately, that brings me back to my original question: what is their game plan? Is it their game plan just to sell on these businesses and whatever properties there are and get the biggest bang for their buck?

Mr T Bell: I do not think it is. I sincerely hope not because it would be a disaster, but the answer is that we do not know. At this moment, we do not see anything coming through.

Ms McCarragher: From speaking to representatives at Capita Asset Services, it appears that, as opposed to Cerberus wanting to close down businesses or anything like that, it assigns a certain figure that it wants to achieve from a connection. Some have referred to it as the "magic number". On numerous occasions, we have been told, "If you meet our figure, we will agree, no matter what the value of the security and no matter what the representations". When we ask what the figure is, we are told, "That is up to you to find out".

It would appear, further to discussions with Capita representatives, that they have assigned a figure to each connection, and if you meet that figure — obviously, as the Capita Asset representatives have stated, they want to make a return of a certain amount on each connection — no matter what your proposal is and no matter what the valuation is, it will be accepted. As for finding out what the figure is, they will not under any circumstances advise how they came to it or how they see it being achieved. If they come back and advise that a proposal is being rejected, we ask, "Can you please provide your reasoning for rejecting this proposal? If you find that there are further funds to be raised through any other properties or from any other sources, please advise us, because our clients will do their utmost". Usually, however, offers that we submit are the absolute maximum that can be raised by clients.

Most of the offers that are put forward are from third-party family and friends. Without their assistance, there would be a higher number of bankruptcy proceedings. If our clients did not have assistance from third-party family and friends to fund an offer to Cerberus, we would have to advise them and bring them through the process of bankruptcy. It is not as if we are dealing with clients who have a lot of savings in bank accounts or who have a lot of equity in properties. These are individuals who are struggling and who I have seen, even over the past couple of months, come under a lot of pressure from the attitude that has been adopted.

The Chairperson (Mr McGlone): Can you elaborate a wee bit as to the type, form and manifestation that that pressure takes?

Ms McCarragher: The pressure on individuals?

The Chairperson (Mr McGlone): Yes.

Ms McCarragher: One individual in particular calls me twice every day and is under unbelievable stress. No matter how many times I advise of what we believe the process is or what we are doing, we deal with individuals who are not sleeping and have family members —

The Chairperson (Mr McGlone): They being who?

Ms McCarragher: Clients who are involved in this process.

Mr T Bell: If you go to a meeting and the client attends, and the lender, whoever it might be, continually reinforces the fact that they have the right to enforcement, those clients are looking down the drive at all times. If any lending institution appoints a fixed-charge receiver, in whatever form, there is no notice. By its very nature, the appointees attend and take over from there. It is an ongoing fear. There are men and women who look very strong on the outside but have that "Who's that coming down the drive?" approach. It is not a good way to conduct things.

It is awful for the economy; it has gone on for ever and a day. There are good men and women who are still trapped in this five years hence, who I know are essentially hiding; it is desperate. As for the toll, we have some clients — we all age — who you do not see for two or three months and they turn up at the office and you think, "Wow, what happened there?". There are people who have been seriously affected. I do not want to go into too much detail on that, but we can give that information under separate cover, if you like. Some people have had some terrible times and it has taken a terrible toll on their health.

Claire came up with an incredible statistic, which sounds crazy, namely that 100% of those in serious debt have contemplated suicide. That is not our statistic; that is from a very eminent organisation. That is the toll that debt takes. When there is anything that is unsustainable, people just do not know what they are going to do and it is on their mind all the time.

The nature of our business means that we deal with a lot of farmers. They are under massive duress at the moment; everybody knows what is going on in the rural economy. It is very hard to put this across. I am sorry, Chair, I am labouring it, but it is such an important thing and such a personal thing to us as well. We all want to go to work and earn an income, but this is very personal to us. Sometimes, I have let myself down, and hopefully I will not do that today, but to try to get over what some people are going through is very difficult. Most banks do not often take a lot of account of that, but they should.

Mr McKay: That final point is the most important one. Rather than the figures and the cases, it is about people's health at the end of the day. It is not just about businesses or individuals; it is about family members, spouses, kids, and it is about the 40 employees and their families as well. We should have that at the forefront of our minds.

To put this into context, you deal with many different banking and lending institutions. How does this compare with those institutions? Did you have any dealings with NAMA before Cerberus took over?

Mr T Bell: We have not had a lot of dealings with NAMA, to be honest. We usually deal with sums under £5 million; that is typically our maximum lender. Other institutions take different approaches, but you know where you are. Ulster Bank has been a difficult one because it was rudderless for a few years and did not really know what direction it was going in because of where it was. However, at the moment, everybody knows that Cerberus is on board and that at least there is going to be finality at this stage. At the moment, in our dealings with Cerberus, we do not have the confidence to say to clients, "Don't worry about this. This will get resolved". We do not have that in many instances anyway but, at this moment, if you are asking a specific question, Chair, our clients do not know where they are, which is the worst feeling of all. They are good people. These people, who are still here, have paid a lot of their dues along the way. It goes back to what we were saying about the letter of pledge, namely that they will be civil and kind to the people who cooperate. That is not quite the case at the moment.

Ms O'Kane: If I could interrupt, the people who are typically our clients are consensually selling properties to assist Cerberus. These are clients who are fully cooperative and, ultimately, as Terry rightly said, they thought that there would be an end to this. You can see from the letter of pledge that they wanted to stop the stagnant economy. They are not doing that. There is no actual movement with them. We do not know what way it is going to go forward, and that, obviously, is having a detrimental effect on their health, as Terry mentioned.

Mr McKay: On that point, we are conducting an inquiry in the Finance Committee in regard to the sale of Project Eagle and we have been looking to see if there are any references to Cerberus that can be raised today. When the former First Minister was before the Finance Committee, he said that Cerberus:

"will be a tough negotiator, and, depending on the extent to which debtors are willing to work with Cerberus, the responses have been different".

So, there is a view there that, if you are cooperating with Cerberus and doing what you can, there will be some sort of accommodation, but you are saying that those businesses are bending over backwards and still finding a closed door.

Ms McCarragher: It depends on how Cerberus defines being cooperative. Some of our clients have been asked to make significant lump payments within a 24-hour to 48-hour period. If individuals can do that and comply with its requests, maybe that is what they see as being cooperative. Most of our clients cannot raise significant sums within a 48-hour period.

In respect of rental income and monthly payments, Cerberus knew that was a non-performing loan. Most of our clients have not been able to maintain their contractual monthly payments over, maybe, 12 months. So, for that to be requested — We show them the income expenditure statement, which shows that, in most cases, our clients are fully reliant on third-party family and friends to meet their day-to-day needs each month because of the low income that they are on and their high expenditure. Some individuals have families with up to five dependants. So, if being cooperative is meeting a significant payment within 48-hour time frames or continuing to pay the monthly payments, there are individuals out there who cannot comply with those requests. Maybe that is what is being defined as individuals who are not being cooperative.

Ms O'Kane: On the reasonable man scale, a cooperative borrower, you would assume, would be somebody who is willing to work with Cerberus to maximise their return. You would assume that that is what it would be, but it is not, ultimately, what has happened.

Mr McKay: Ultimately, the issue for those businesses is the fact that, regardless of what the deal is, they just want the deal done. The longer this hangs over any individual, the risk of suicide, self-harm and all those issues will increase. We are nearly 10 years on from the economic downturn, and I presume that at least some of the businesses were caught out by that. It is important for the wider economy that they are given an opportunity to move on. As for some of the tactics that are being deployed, such as the 24-hour or 48-hour ultimatums, coupled with the fact that they are not returning phone calls or having a meeting to try to reach some accommodation, is there a lesson for us as politicians, and the business and banking community, that we need to be wary of bringing in institutions that deploy those kind of tactics in future?

Mr T Bell: It is a difficult one in that we appreciate that all lending institutions will still do their utmost for stakeholders, and there are instances where people will abuse the system or the process. They have to conduct themselves well, and I think that the Financial Conduct Authority (FCA) is more than on top of most of those things but, as you said, Chair, still trying to recover from the five-year or 10-year process here is a crazy position for a country to be in, let alone a lending institution. I am not actually answering your question, but it is a difficult one because the lending institution has to have certain criteria and protocols that it must adopt. It has to look after its stakeholders at the end of the day.

Ms McCarragher: There are various departments in alternative lending institutions that also adopt the approach of not holding face-to-face meetings and not returning phone calls. It does happen. At the same time, the departments or individuals who have carriage of the case consider the position and are, in most instances, fully transparent about where that lending institution is and what they are trying to achieve. Whether it takes significant time, an agreement is ultimately reached. Again, it is more commercial. It is based on the borrower's ability to pay and on whether there are any assets

surrounding them, and an agreement is reached that will not burden their financial position any further than it already is. The last thing that anyone wants to do is reach an agreement whereby they have to take out a loan from a loan shark or from other sources and are trapped in the cycle of debt all over again and will more than likely not be able to repay that loan. In a lot of cases, we have to advise our clients and stress to our clients not to go down the route of taking loans with high interest rates, because they will be unable to pay it. Clients have suggested that to us to increase their offer to a lender, and individuals have suggested it to us to increase their offer in a proposal that went to Cerberus. They cannot do that because they cannot meet the monthly repayment, let alone the interest rates.

To answer the question, face-to-face meetings are most definitely beneficial, but an agreement can be reached without that happening, as long as what is being taken into consideration is the individual's financial position and not just the figure that they are aiming to achieve.

Mr McKay: Who have you met at a senior level in Cerberus? Obviously, you will meet certain individuals on a case-by-case basis, but who have you met from management? Have you met people who are setting the strategic direction of the company?

Mr T Bell: The initial meeting is usually with a vice president of Cerberus. There are three or four of those. That is usually to get the process started. As you go on, you are back into Capita capturing the gathering up. Claire outlined the process, and you are potentially still going through Ulster Bank to make a submission. That then goes to Capita and up the line to Cerberus, Promontoria and/or whatever variety there. Going back to what I was saying about transparency, we can make submissions to Capita, but it might say, "No, we are looking at full repayment here and/or we do not agree with the valuation". You have the initial consultation with Cerberus, but it seems to then step back and leave it to —

Mr McKay: Do those engagements with Cerberus seem cordial? Do they seem to engage?

Mr T Bell: They are civil enough, but they do tell you where they stand.

Mr McKay: And when it comes to the crunch, Capita does not —

Mr T Bell: The initial meetings especially were very civil. They will say, "We can move on with this. This is what we are looking to do. We are not long-term lenders. We need a solution out of this". As time has gone on, because of whatever else is going on, they are still stuck.

Mr McKay: Who were the initial meetings with? Was it the vice presidents?

Mr T Bell: The various vice presidents in Cerberus, who are usually appointees here, North and South.

Mr McKay: Who are they? How many of those are there?

Mr T Bell: In terms of names?

Mr McKay: Yes.

Mr T Bell: Some of them are ex-Ulster Bank. They are very civil guys. They have a job to do. Kevin Craig is the principal contact here. Kevin is a good man. He works away. We had dealings with him at Ulster Bank, but he has a role to play in Cerberus now.

Ms McCarragher: Prior to contacting the Committee, we made representations to our contacts at Cerberus who were present at the meeting and said, "If there are any issues, you can contact us". Prior to contacting the Committee, we went straight to Cerberus and outlined all the issues, just as we did in the summary that we provided to you. The response that we got was, "Please refer back to the case manager at Capita Asset Services". We had requested face-to-face meetings. We wanted to throw everything on the table with them, talk about the issues that our clients were facing and, hopefully, come to some sort of conclusion or at least get some sort of idea of their intentions or their process. Again, that was never forthcoming.

Mr McKay: I have one final question, Chair. The Finance Minister has indicated that DFP officials meet regularly with Cerberus to discuss its local operations and approach, and presumably there are officials in DETI who do the same. Have you received any response from either Minister on the concerns that you raised?

Ms McCarragher: No, we —

Mr T Bell: We are awaiting contact from the Finance Minister's office to discuss.

The Chairperson (Mr McGlone): OK. I just want to explore one or two other things that were touched upon. What level of interest rates are we talking about? Are they variable? Do they vary according to the level of perceived risk that is associated with the borrower? What are we talking about?

Mr T Bell: As a generalisation, they adopt the rates that were due on the party to the loan. They are not punitive. With respect, they are usually irrelevant, because if you owe £1 million, and a proxy is worth £500,000, a wee bit more on the bill is not the worst thing in the world. Cerberus is looking for some servicing of the loans, which is quite right. Where clients can do that, they do it. I am not 100% sure, but I do not think that they are being punished. It is not a penalty rate, as such.

The Chairperson (Mr McGlone): OK. I have two other issues. I read cases 1 and 6. Your perception was that proposals were not being fully read. In some cases, you were ignored. In case 6, they admitted that they had not looked at the client's file. Did they have access to it?

Mr T Bell: Yes.

The Chairperson (Mr McGlone): They had no idea of what value had been assigned to the security that was being held.

Mr T Bell: That was when we attended a meeting with Capita.

The Chairperson (Mr McGlone): That seriously does not sound to me like a very useful meeting.

Ms McCarragher: No. In example 6, we had requested a meeting as a matter of urgency. We were advised that members of Cerberus would be present. Because of the conduct of individuals and how the case was being treated, we had requested a meeting for weeks, and it had been denied, and we —

The Chairperson (Mr McGlone): Sorry for interrupting you, Claire. What do you mean by "the conduct of individuals"? Do you mean within Cerberus or Capita?

Ms McCarragher: I do not know whether it was an individual or the overall attitude that had been adopted in cases — the aggressive approach that had been seen in a few different cases. In example 6, again, it was all about valuations. Our client had instructed valuers to conduct their own valuations. The report itself was around 30 pages long. It went into the ins and outs of the business and so forth, such as how many employees it had, and raised comparable properties. That was put forward. There was no comment on the valuation report. All that they advised was that their value differed from ours.

That is the same case where I had provided four pages of comparable local properties that sold within the 12-month period. Again, it was not considered. They eventually agreed to a meeting. When we attended, the client also attended. First of all, we were advised that Cerberus was no longer able to attend. We were given a 15-minute slot. We did not know that there was a time restriction on the meeting. We wanted to discuss the matter in full. At the beginning, they openly admitted that they had not read the case. When we asked questions and raised the fact that, for example, jobs were at risk, all that we were told in return was that it was a legal matter and they could not comment on it. Again, with regard to the valuations, they had no idea of the value that had been assigned to properties. They said that the only individuals who knew that were in Cerberus.

The Chairperson (Mr McGlone): After that meeting, was there any follow-up in which Cerberus became involved?

Ms McCarragher: No. After that meeting, it proceeded; we made one further, final submission, which, again, was ignored. Receivers were then appointed over the property. We are still in ongoing discussions with Capita and await a response to a further submission that was made around three or four weeks ago. Although receivers have been appointed, the property is not on the market. No one has been asked to vacate the premises. We are making representations to the instructed receiver now.

The Chairperson (Mr McGlone): Have there been job losses as a consequence of that?

Ms McCarragher: Not yet, no. If they choose to proceed with the sale of the property, the business will have to vacate, and all jobs in that premises will be lost.

Mr Dunne: Thank you very much for your information. Those of us who are active as MLAs in our constituencies are certainly very sympathetic to what you are saying. It is important that there is transparency. We believe in that totally.

I have a couple of points. Mr Bell, have you lobbied any other MLAs about the issue or had any correspondence with any of the members at this table?

Mr T Bell: Not on the Cerberus issue, no.

Mr Dunne: Have you had any generally?

Mr T Bell: Generally, we have lobbied MLAs before on previous cases, but only when there were jobs at risk.

Mr Dunne: OK. Can you give us any further information on who you contacted?

Mr T Bell: One client had a spread of businesses, and there were four individual MLAs. He approached Ian Milne, who stepped up, and we had a meeting with the financial institution here at Stormont, along with the deputy First Minister.

Mr Dunne: OK; thank you. What about you as a company director? You have obviously touched on it, and, to be fair, you have done something about it. What about making representation to the Finance Minister. Have you thought about that?

Mr T Bell: Submissions have been made. We are still waiting for a meeting with his representative.

Mr Dunne: Have you asked for it?

Mr T Bell: I think we have.

Ms McCarragher: They have issued a letter to the effect that they will soon be in contact to arrange a meeting.

Mr Dunne: So that is in the process.

Ms McCarragher: That is in the process, yes.

Mr Dunne: When was that initiated?

Ms McCarragher: I think that we received a response around three weeks ago. I just need to confirm the exact date of that. That was issued directly to my colleague Helen, who is not present today, but I can confirm the date of that.

Mr Dunne: The other point is the upturn in the economy. Obviously you were listening to the news this morning. There was positive news about the upturn in relation to how units are being filled, even in Belfast city centre, and it is all positive. We are sitting here as elected representatives, and we do not know all of the details, but obviously that is a factor in the reasons why negotiations are more difficult than they were. Is that something that needs to be taken on board?

Mr T Bell: It does to a degree, but when Cerberus originally arrived, it was here for the short term. Every client is advised, when they go into a meeting, that, "We are not lenders". It is not as though they say, "OK; there's your loan. We'll rewrite that as a five-year or 10-year loan". Cerberus is on a very short timescale. There was an interesting article in one of the papers — I cannot remember which one — showing that those guys usually work by, typically, like any loan purchaser, trying to turn that loan book around in two to three years. I take on board that there possibly could be a bit of that, but I do not think it is particularly salient to the way that Cerberus and/or other loan purchasers conduct themselves.

Mr Dunne: It is a factor, though.

Mr T Bell: It could be a factor.

Mr Dunne: What about the Financial Ombudsman Service? Have you made any representation to it about the lack of transparency?

Mr T Bell: No, nothing as yet. It may be a route that we have to investigate a bit further.

Mr Dunne: OK; thanks very much.

The Chairperson (Mr McGlone): That is a useful point that Mr Dunne made, because, clearly, they are not supposed to be operating completely blind-sighted, in a vacuum, offside. That is why half of those financial regulations were brought in. I know that it is for your client to determine whether they want to choose to go down that route, but it may well be a route that you will have to go down. The urgency of the situation and how quickly the Financial Ombudsman can get their teeth into a case —

Mr T Bell: That is another thing.

The Chairperson (Mr McGlone): "That is another thing" is right. An tUasal Ó Muilleoir, Máirtín.

Mr Ó Muilleoir: Go raibh maith agat, a Cathaoirleach. Thanks for coming in. That is what we are here for — to let the public air their concerns about the economy and the creation of jobs. I sit on another Committee, the Finance Committee, which is investigating the NAMA/Cerberus scandal, but you are actually dealing with a part of it that we have not really looked at at all. You are dealing with the smaller fish in the pool, because some of the people that we have spoken to owed NAMA €500 million, which is a lot more than some of your clients owe.

I have received some phone calls, especially since our investigation started, from people, some of the farmers — you mentioned that previously — who stretched themselves too far and perhaps got carried away. I do a lot of work with the banks, and I am happy to declare that interest. Banks encourage that. Sometimes farmers were told by the banks, "Look, no problem. We are going to get planning permission for that field, borrow £1 million against it", or whatever. Some people did build houses and got into trouble.

It is a concern that the Ulster Bank let those loans go to Cerberus, because I would have thought that any of the banks would be better guardians of the loans than Cerberus. The person that I spoke to said that there is no information and no real guidance as to what Cerberus wants — those are smaller fry, if you like; smaller people but important people — that meetings with Cerberus are yes/no meetings — you were very fortunate; you got a 15-minute meeting; I got a six-minute meeting — and that they are really just working in the dark.

Mr T Bell: Exactly.

Mr M Ó Muilleoir: Mr Dunne's comment about the Financial Ombudsman was very interesting. We should write on the back of this, because I am not sure that the Financial Ombudsman's powers extend to the Financial Conduct Authority (FCA). I am not sure how much those authorities have sway over the likes of Cerberus.

The question is this: how do you close on those? Do you think that Cerberus wants your people to walk away? We are talking about smaller assets. Let us say that someone borrowed £1 million and bought an asset, and Cerberus bought it for, say, £200,000. That is 20%, which is about where we are. Cerberus wants £600,000 or £700,000 for it; it wants to make a £500,000 profit. Maybe it thinks

that there is another client out there. Maybe it is trying to break your people, as it were. How do you close on those? It seems that you are totally in the dark.

Mr T Bell: One of your colleagues asked earlier whether there could be a rise in the asset value. There could be. Obviously, it has to maximise the return. We appreciate that. In the limited number of cases that we have with it, we look at some of the decisions and think, "Why did you do that? Why did you appoint a fixed charge receiver?". Typically, the appointment of a fixed charge receiver is going to hit the value, because it is going to be marketed as a property in possession. We just cannot work out the commerciality. Perhaps it is a trust issue. We have never had a trust issue with any bank or institution. It is about transparency and being able to say, "If you put a fixed charge receiver on that, you're crazy. You're going to lose your company more money". Obviously, it is a very commercial and driven organisation. The flip side is that it has to give the client the opportunity to know what they are playing against. We would say this because all our clients are great. All our clients are involved in this and have gone through this five- or 10-year struggle to where they are now. They are ready to try to work that through; they have hung on. Many a man and woman has thrown back the keys and headed to the bankruptcy court. That is not a criticism. But a lot of the men and ladies are trying to battle through. There is going to be some finality, but it is about knowing what the rules are.

Mr Ó Muilleoir: Are there any rules with Cerberus?

Mr T Bell: There are, but it is holding them close to its chest.

Mr Ó Muilleoir: Are you surprised by that? It is a vulture fund; it is a fund that prides itself on its cut-throat, rapacious approach to people. It is really slash and burn. Were you surprised by how it makes money? It makes money by saying to people, "We're going to go in. We're going to buy at the lowest price, break people and sell at the highest price".

Mr T Bell: We went into the initial meeting. There was a bit of a lag, after it bought the loans, to get itself set up so that it had Capita ready to be its facilities management company. I was with a client — I remember the day; I think that it was 24 July — who said, "There are 28 days to get a proposal. We want to get out of this. Off you go". Everybody rushed to one corner of Donegall Square because there was only one bank at that time lending money. There was a poor bank manager under severe pressure to knock out letters of offer saying, "Yes, we can do this and this". Since that date, six months hence, there has been no movement, which is strange. I am sure that Cerberus and all loan purchasers are on a short timescale. Property is a slow thing to move around; you do not just quickly move in and out. You are not selling a tin of beans. You would think that there would be a bit more urgency on that side. What else is going on in the background? I do not know, and, quite frankly, I am not interested. Our clients are suffering. Give them the civility, if nothing else, of knowing where they stand. As I said, they have suffered. I do not make any apology for this: I get really emotional about this. I am not a communist by any stretch, but I get really concerned about what people are going through. If you do not know, that is the worst thing of anything. The unknown is a desperate thing.

Mr Ó Muilleoir: Do you think that it is immoral?

Mr T Bell: I would not take a moral stance on it. It has a job to do. It is wrong. It is not helping its case, for sure. Immoral? That is difficult. If anyone is put unnecessary pressure to answer a question differently, it is immoral.

Mr Ó Muilleoir: Let me talk to you about the figures. Project Eagle was €5.7 billion and was bought by NAMA for €2.2 billion. NAMA paid €2.2 billion for those loans at a face value of €5.7 billion.

It was bought by Cerberus for €1.24 billion, plus they threw in a million. Amazingly they knew the price to bid and put a million on it. So the tax payer in the south, having covered the losses from the €5.7 billion down to €2.2 billion, then lost another €783 million. By any stretch of the imagination, Cerberus got the bargain of all bargains. So how much is enough? Of course they are commercial, and people have to respect that, but how much is enough? We go back to that example of the farmer who borrowed £1 million and was told by the bank "No problem. We will get you £1million. Build two houses in that field. They are going to sell for a huge price. You are going to be OK." Then everything turns against him. Cerberus bought that million for €200,000. You seem to be saying that there is no "enough" and that, in fact, they might end up with more than a million pounds as the market recovers.

Mr T Bell: I cannot answer that, obviously, because I am not Cerberus. But they want the return of their money.

Mr Ó Muilleoir: To get the return of their money, they need €200,000.

Mr T Bell: Absolutely. But there are people, far more learned than I am, who say that these guys work on a 24-month, 20% return on your money. So in terms of whatever they paid, as you allude to in those figures, there is enough room for them to work their way through it, and then some.

I keep labouring the point about the smaller guy, and we refer to that letter of pledge. That was for NAMA, going back to the guys that are in the upper echelons of what they borrowed. But that seems to set the precedent of how they were going to conduct themselves. Our clients are getting battered personally, so it is not just about the businesses. Losing a business is bad enough, but then they look behind that at the guarantees and whatever assets you may have.

I would not even start to think about giving this Committee any sort of direction, but that letter is there and is a very important document. If that sets that out, going back to knowing how they are going to conduct themselves, surely that should be the precedent across the board. That gives the small guy — again, I say that I am by no stretch a communist — a chance to get out there so he can go on and create. You need that if you are going to get an economy that grows. There are lots and lots of really good people still trapped, and that footprint is on their head at the minute. So I implore the Committee to take this up with Cerberus: Is that a general rule? They will say no, but it should be.

Mr Ó Muilleoir: As far as I am concerned this Committee — and I do not mean to speak for the Chair, but I certainly speak for the majority, if not all, of the members — stands with the small business owner, the farmer, those who are distressed and in debt, who are working their way through it and who want to honour their debts and need a way out. We would like to see those people back on their feet and contributing to the economy.

When it comes to the choice between a vulture fund like Cerberus, which has no rules, as far as I can see, and the small people we represent, I want to stand with the small people.

Chair, I suggest that you may have better luck than us, because Cerberus will not talk to us —

The Chairperson (Mr McGlone): Right.

Mr Ó Muilleoir: So much for respect for the elected representatives of this benighted part of the world. Perhaps the Chair has a more enticing invitation. Certainly Cerberus needs to answer some of these allegations. Thank you for doing a public service by coming here.

The Chairperson (Mr McGlone): I was going to come to that in the wash up at the end, but I have Mr Leslie Cree.

Mr Cree: Good morning, folks. I think that you are right. This document from Cerberus, this pledge or invitation to treat, as I would maybe call it, is significant. In point 5, it says:

"immediately following the consummation of the transaction" —

That is a nice turn of phrase —

"Cerberus intends to enter into discussion with each of the Borrowers with a view to negotiating a consensual resolution".

It goes on to say, for equity, all the things that may be possible. I have a simple question: to the best of your knowledge, did it do that? Did it meet each one of them?

Mr T Bell: No. In our experience, no. Most of the terms and conditions in the whole letter have not been adhered to. This is for NAMA, and, with respect to Cerberus, the size and type of developments and properties involved in here are usually top-end properties: shopping centres and the like. That is low-hanging fruit; that is the easy one to go for. The smaller guys definitely are not being afforded those rights.

Mr Cree: It is quite unequivocal. It says "with each of the Borrowers".

Ms McCarragher: With point 5, they are allowing individuals to put forward submissions. It would appear that they are not being taken into consideration and that, in quite a few instances recently, receivers are just being appointed. They are allowing individuals to make their submissions, but whether they are being reviewed and considered by the top level, to ascertain whether that is the most commercial route to proceed down, in order to reach a consensual agreement, is another matter.

Mr Cree: That, again, is not doing what they say. They say that they intend:

"to enter into discussions with each of the Borrowers".

They have not done that.

Mr T Bell: They are afforded the time. Going back to the initial meeting we had with Cerberus, it was, "This is Capita; this is so and so", but that is it. Then you are into dealing with Capita; you make your submission, but there is no discussion. "No thank you, full repayment; although we believe that the asset value exceeds this". Very short and curt.

Mr Cree: I think that that is a useful plan, if you want to take that forward, but there is, in fact, a disingenuous approach to what they said they would do.

Mr Humphrey: Thank you very much for your presentation, ladies and gentlemen. All of us, as other members have said, are hugely sympathetic to the plight of your clients and, indeed, anyone who finds themselves in that position; many do, through no fault of their own.

Mr Bell, you talk about Cerberus being here for a short timescale. Why, then, if I heard you correctly, do you think that there is a lack of urgency?

Mr T Bell: I do not know. I know that other things are going on with Cerberus and everything else and its existence here. Whether that has stalled them, I do not know. I cannot understand. It flies in the face of what was said at our initial meetings.

Mr Humphrey: How would you describe your company's relationship with Cerberus at the moment?

Mr T Bell: We are civil; we get on with them. We are always very civil with all lenders. We conduct ourselves in the right way with them. We have our frustrations; we have our words; but we work right the way along. We worked right the way through the process with Ulster Bank. As I said, they were stalled for a couple of years, and we worked through with them on that basis. We work with all banks and lending institutions, and our relationship with them is fine.

Mr Humphrey: Has the company's relationship with Cerberus changed in any way, since the NAMA deal and Cerberus being introduced into Northern Ireland?

Mr T Bell: No, because obviously we were dealing with the cases with Ulster Bank primarily. Then they went over to Cerberus. It is a very short relationship. It is only since July last year.

Mr Humphrey: Has your relationship not changed at all?

Mr T Bell: There is not, as such, a relationship in existence; there never has been, because we were rarely on board.

Mr Humphrey: I turn then to the suggestions that you make to the Committee on how it can assist. At point 6, you say:

"As a result of this, we would respectfully ask for the commitment of both Committees to assist".

Have you sent this to the Finance Committee as well?

Ms McCarragher: This was issued from the Department of Enterprise, Trade and Investment. If there was another Committee that it had to be submitted to, it would have been submitted, if we were advised of that.

Mr Humphrey: Sorry?

Ms McCarragher: Had we been advised that there was another Committee for this to be provided to, we would have had no problem issuing it —

The Chairperson (Mr McGlone): This is just part of your submission, to supplement what you are saying to us today.

Ms McCarragher: Exactly, yes.

Mr Humphrey: That having been said, it states "both Committees", so it should have been sent to the Finance Committee, and that is simply the point I make. It has not been sent to that Committee. What you would require this Committee and the Finance Committee to do is provide:

"written support, a representative to attend meetings".

How do you envisage that working?

Mr T Bell: We are not requiring that. It is not that we are trying to make the job easier for us; we just think that, with the matters being brought up today, it adds gravitas. I keep reiterating: it is not just this company that is experiencing this. A lot of professional organisations across all of Northern Ireland and in the South are experiencing it. If the attendance of anything from Stormont adds gravitas to the argument, it is not to sway it; it is just so that it is heard properly. And that is what happens.

Ms McCarragher: That is most important in instances where jobs are at risk. We ask that maybe someone from the Committee could give more of an insight or consider the jobs at risk in that connection. There are several cases in which, I think, it would be quite important if a Committee member could attend and consider it in full.

The Chairperson (Mr McGlone): Picking up on that point, as a local MLA for the constituency, I have attended meetings with financial institutions to assist in those things. I am sure that other members have done that as well. If, coincidentally, it happens that a Committee member is a representative for that constituency, that is grand, and we will do anything that we can to help.

Mr T Bell: Absolutely, in a perfect world. When you are struggling to get them to talk to you is where you see the frustration.

The Chairperson (Mr McGlone): On a point of information, William, the papers were shared with the members of the Finance and Personnel Committee who are with us today.

Mr Humphrey: Did all members of the Finance and Personnel Committee get them?

The Chairperson (Mr McGlone): Yes.

Lord Morrow: Thank you for your presentation. I must confess that, from listening to it and what has been said around the table, this is a wee bit like wrestling with smoke. It is very hard to get a grip on it. Claire, I wonder whether I picked you up right on something that you said. If I have not, obviously you will correct me. Did you say that there were difficulties in obtaining valuations?

Ms McCarragher: Is that in respect of Cerberus's valuations?

Lord Morrow: Yes.

Ms McCarragher: What happens is that our clients instruct their own valuer to provide their valuation report. It is then provided to Cerberus through Capita or Ulster Bank, if it is managing the case. We have been receiving the information that Cerberus's value differs from ours. It will not provide its valuation reports, let alone advise us of what value it has assigned to the property. Under no

circumstances have we to date been advised of a value that it has assigned to a property or obtained a copy of valuation reports that it has obtained.

Lord Morrow: If your client gets a valuation of a property at x and Cerberus looks at this, does it confirm that that is similar to what it values it at or, in the event of it not being similar, does it clam up and say, "We have no comment to make here"?

Ms McCarragher: All that they advise is that their valuation differs from that of our client.

Lord Morrow: To what extent do they —

Ms McCarragher: It is literally one line. We asked whether, if that is the case, the expert appointed by Cerberus can meet our client's expert. We suggested that any issues that its valuer had not taken into consideration could be discussed or that, if there was anything else that Cerberus's valuer had seen that had been an oversight from our client's valuer, both experts could put their heads together and come to an agreement in respect of the current market value. To date, it has not accepted. It has not been in agreement to any experts meeting. We do not even know who has been appointed as its valuer over properties. Where a lot of businesses are concerned, we have advised that a red book valuation is imperative. Taking into consideration that there has been no request to individuals to allow a valuer to attend the property and to go through the books, we can only assume that they are drive-by valuations or desktop valuations, which are not sufficient, especially when it concerns a business.

To answer your question, to date we have not received confirmation of even the name of Cerberus's valuers or a valuation report or a confirmation of a value that it has assigned to any property that we are currently dealing with in any of our clients' cases.

Lord Morrow: Is it possible that Cerberus works purely on a book valuation of the complete portfolio that it has in its possession?

Mr T Bell: It could work on a desktop valuation. If there were a lot of residential properties, you could work on that basis. But —

Lord Morrow: That would not be very helpful.

Mr T Bell: They are an indication. Somebody has to go away and sell these properties, and they are going to end up going into a contract with Cerberus confirming a price that they are going to get. If they are not right, that may invalidate the agreement. Some of these properties that are involved are a lot more complex than that. It goes back to the red book, and there are going concern issues etc.

Lord Morrow: You have obviously worked with Ulster Bank.

Mr T Bell: Yes.

Lord Morrow: We know that it has had its moments in the past. How do you compare working with Ulster Bank and working with Cerberus?

Mr T Bell: There was a void period in Ulster Bank where it did not quite have a lot of direction, up to about 18 months prior to November 2013. Ulster Bank seemed to be in a bit of a void.

Lord Morrow: That is mid-2011.

Mr T Bell: Yes, that sort of period. There was not a great deal of direction from up on high, as it were. You were almost in the sort of thing where nobody knows what is going on. One of the most ridiculous examples was a company that went into the Ulster Bank, say for about £1 million, and they were arguing, on a personal income and expenditure account, whether it should have Sky TV or not. It just dragged the process out. It is that state of limbo that we are facing again at the minute. Your colleague was asking about the relationship with Cerberus. There is no problem. Everything is civil. It is not that. It is for clients to be able to move on, and, I would suggest, for Cerberus to move on and start to realise commercially what it should be realising. There was a phase of about six months after the date I mentioned when the window was open. They were very open. It was, "Let's get on with

this. Let's do this. Let's do that". The door sort of closed as it started to put the loan book out to tender in November 2014.

Lord Morrow: What percentage of the clients that you are representing would you say are — for the sake of a better term — in dire straits?

Mr T Bell: In terms of Cerberus?

Lord Morrow: Survival if — yes.

Mr T Bell: All of our clients are in a dire financial position, because they have come to us. If you are trying to put a scale on it, all of those guys are facing the edge, and it is not a good way to conduct your life.

Ms McCarragher: There are different levels of dire straits. We may have individuals for whom there will be absolutely no negotiations with their creditors. The only option for them is bankruptcy. Then you have companies that have the potential to continue in business with a more manageable amount of debt. Although most of the clients who come to us are in dire straits, it is different levels.

Ms O'Kane: Some are able to refinance, and some are dependent on family and friends. There is a different level, but, as Terry rightly said, they are, obviously, indebted to Cerberus.

Lord Morrow: How practical is the refinancing strategy that you talk about there, bearing in mind the condition that they find themselves in? Obviously, another bank or lending source will take a look at all this and say, "Hold on a moment".

Mr T Bell: You are right. That changes quite regularly as well. Some banks — Barclays, for instance — are pretty good in the agricultural field, but they change slightly with the breeze, in terms of criteria, on whether they are looking at debt forgiveness cases or not. It is about debt forgiveness. As an example, if you owe £2 million to a bank but it says that it will take £1 million, it is the ability to get that £1 million out. A couple of the banks are working away. It is the only place to go to get refinanced. Obviously, as everybody here knows about the banking structure, there is not a lot of finance around. It is a case of the lender taking the view that, "If these people can go and get us £1 million, do we entertain it?". It is not easy.

Lord Morrow: Of the clients that you are working with, are all or the majority of them working with what I would call straightforward banking arrangements?

Mr T Bell: In the main.

Lord Morrow: Is it Northern Ireland-based banking?

Mr T Bell: In the main, again.

Lord Morrow: If a company goes down, it seldom goes down alone. It often takes something else with it. If, tomorrow, all of the companies that you represent just went under, which would be a tragedy, what would be the fallout from that?

Mr T Bell: There are many different measures. Because you get subcontractors, suppliers and everything else off there, and if they are strong in a local area — that is a key factor — you could typically work on the basis of two or three times the actual effect on just the headline figure. A construction firm, say, will have a core of staff, but will use subcontractors all around them. Those guys can go and find other work, but it will obviously hit them. Some work continually with them. It is hard to put a measure on it, but there are statistics out there. It is about two or three times, subject to where that business is. For example, you have the Gallaher factory. Obviously, it would have been massive in the local economy because it was so centralised. It is hard to put a figure on it, but it has multiple effects for sure.

Mr Paul Fitzgerald (Bell and Company): It is not just jobs that are affected in this. Some of these businesses are providing healthcare, such as nursing homes, and nurseries. Constituents will be affected as well.

Ms McCarragher: If residual liability is still due and owing after those businesses are gone and the premises are sold, it will go to individuals to pursue them for their personal assets, be it their dwelling home or sometimes vehicles, which could be repossessed, or proceed with a bankruptcy route. At that stage, if agreement will, 100%, not be achieved, we would more than likely proceed with a bankruptcy route with the client themselves and would advise them accordingly of that. Once the business is gone, the property is sold and the jobs are lost, the borrower's home and assets are at risk. That is when they have to look at other sources of living, and so on.

Mr T Bell: Again, any businessman or businesswoman in this situation is trying to seek some sort of finality. Bankruptcy is a finality: it is a bit of a desperate one, but, sometimes, it is the one that gives you a chance to do whatever you are going to do to go forward with your life. That is all that people are looking for. I would say that the people who are still in existence, if you like, from what happened back in the day are the good guys. I would say that anyway. They are the good guys: they have paid their dues and done their best for the banks. They have opened buildings up to get valued and everything else. They have done everything that they can. They just want closure on this. None of them wants it to be bad news, but if it is going to be bad news, put them out of their pain, because the suffering is immense.

Lord Morrow: Have you submitted your request for a meeting with the Finance Minister?

Mr T Bell: Yes. We are waiting for a representative to come back to us.

Lord Morrow: I do not know whether it is any consolation to you, but, certainly I and, I suspect, my colleagues would support that. Hopefully —

Mr T Bell: Exactly. Within reason — sorry to interrupt you, Lord Morrow — it is to do anything that helps. It is not that it helps our case. We want to save our clients' money, but it has to go through the normal processes. It is about what we can do. It is purely to get that transparency and, if you like, conduit whereby we can have the conversation. At the minute, I may as well speak to this tabletop in some instances.

Lord Morrow: The economy is in a better condition. It is not as it was and has been. It is going in that direction, which is very encouraging.

Mr T Bell: It is very good, absolutely.

Lord Morrow: Bearing in mind that you are dealing with the legacy of a turbulent time, and some of us might say that the banks played their part in that turbulence, is there any hope or positivity for your clients, whoever they might be, as we enter into better times or is it the case that the cause is lost? This is what I am concerned about. Is the cause lost as far as you are concerned and it is now about making it as soft a landing as you possibly can for them?

Mr T Bell: It is. Again, using the phrase that I used earlier, it is about getting some finality. Yes, you want the soft landing and we do not want people to suffer, but it is very important — I am not a politician — for the Northern Irish economy that these good men and women are out there doing their job again. Some people — different men and women — who have been released and have gone through the process with other banks are doing great. They are tearing away. There are great success cases. However, you cannot keep people trapped like this. The economy is improving. Get these people back into the system and process, contributing to what is going on.

The Chairperson (Mr McGlone): Thanks very much for that. I just want to pick up on some other stuff that you referred to about the process of the valuations. We all know how this works. Originally, they will have done their valuations as part of the portfolio that came over to them. You come in with a valuation that says that the property portfolio, business or whatever is worth x number of pounds. It may be said that it is because of the nature of the process, but do they ever come back and say, "You are a bit too high" or whatever?

Ms McCarragher: Do they ever come back to advise that it is possibly too high?

The Chairperson (Mr McGlone): Yes, too high or even too low. Do they ever give any indication? Is there anything that comes back to you which says that they have actually done a valuation?

Ms McCarragher: In most instances, all that they say is that the value that has been assigned more than covers the liability that is due and owing. In some instances — for example, where a client is in debt of in and around £1.9 million and our valuation of the property portfolio is in and around £1.2 million — there is quite a significant difference. They have advised that the portfolio will be able to pay that debt in full. We have asked for confirmation of how they see that. If it can, that is brilliant. In most instances where our clients have that high a level of liability, if they are getting support from a third-party financial institution by way of finance, the lending institution will conduct its own valuation and provide funds; for example, 70% of what they think it is worth or an amount in that region. We advise them of our valuation. In this instance, the lending institution's valuation was slightly higher than ours, and we declared that to them, but they were still of the opinion that the value of the properties would pay the liability in full, and they have proceeded with the appointment of receivers over the properties now.

The Chairperson (Mr McGlone): That sounds kind of bizarre unless there is some other agenda at work. Either they have not got very good valuers or there is some other game plan afoot; some anticipated game plan, whatever that might be.

Ms McCarragher: They have referred to a magic number on a few occasions. They say that their value outweighs the liability. Then, maybe over a telephone conversation, they will say, "Cerberus has assigned a value to this connection, and if you hit that number, no matter what the value of the security we have assigned to the portfolio, we will accept it". We say, "Well, can we have a bit of insight on this number that you have assigned to this connection and how you have come around to seeing that being achieved?" The answer is, "No, you have to come up with the number".

Mr T Bell: I will just go back to a case, if I may, to give an example in respect of Ulster Bank. There was an instance when a valuer did a drive-by valuation and essentially made a mess of the valuation. It was up, say, towards £1 million. Our client's valuation, which was by a RICS valuer — that man will stand by it — was £500,000. Then we got into some dialogue. We said, "Hang on a minute. We do not think that you quite got that right. There is the bottom land that he did not see". We got into some dialogue and discussion. There was some movement from £500,000, materially down from £1 million, but the discussion was had because it was open. That goes back to the thing that I keep going on about, which is a little bit of transparency. If you say that it is worth £500,000, I might say that it is worth £1 million, but I would give my justification. With this, it is almost like, "I do not need to".

The Chairperson (Mr McGlone): It is an unusual way to do it, to pluck figures out of the air — or not. You just do not know.

That concludes our session with you today. Thanks very much indeed for, first of all, writing to us and offering your information and, secondly, being with us today to give of your time. I found it insightful and helpful. Speaking for myself, I have been there before and done it with constituents. If I can be of any help to anyone from my constituency, I will certainly try my best to weigh in during the difficult circumstances that families often find themselves in.

Mr T Bell: Absolutely.

The Chairperson (Mr McGlone): Often, the human face of this is forgotten about. Thank you very much for your time. We will decide as a Committee what we do to advance this a bit.

Mr T Bell: Thank you very much.