



**Northern Ireland
Assembly**

COMMITTEE FOR FINANCE AND PERSONNEL

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20 August 2015

Mr Alan Hunter
Chief Executive
Law Society of Northern Ireland
96 Victoria Street
Belfast
BT1 3GN

Dear Mr Hunter,

Sale of NAMA Assets in Northern Ireland

I write with reference to my previous letter of 11 August 2015 which formally invited representatives from the Law Society to provide an oral briefing on the above issue.

You may wish to note that, the Committee has agreed the attached Terms of Reference for the review (**Appendix 1**), which is focused on establishing the factual position regarding the relationship between the Department of Finance and Personnel (DFP) and National Asset Management Agency, Ireland (NAMA) and related issues.

The Committee's Terms of Reference are specifically framed to minimise the risk of its review inadvertently prejudicing the current investigation by the National Crime Agency (NCA) and any subsequent prosecution. The Terms of Reference were informed by meeting and consultation with NCA investigators as well as legal advice. The Committee is conducting its fact-finding review and the related oral hearings within those Terms of Reference.

The Committee agreed to submit the attached list of questions (**Appendix 2**) for your written response and to request that representatives from the Society are prepared to address these as necessary at the forthcoming briefing on 27 August 2015.

I would appreciate your written response to each of the questions at your earliest convenience. Should you have any questions in this regard, please contact the Committee Office on 02890 521843.

Yours sincerely,

Daithí McKay MLA
Chairperson, Committee for Finance and Personnel

Committee for Finance and Personnel

Terms of Reference

Review of the sale of the National Asset Management Agency property loan portfolio in Northern Ireland

Background: Following allegations, reported in the media in relation to the sale of the National Asset Management Agency (NAMA) property loan portfolio in Northern Ireland, known as 'Project Eagle', on 7 July 2015 the Committee for Finance and Personnel (the Committee) agreed to hold preliminary fact-finding hearings with a range of organisations and individuals identified from the media reports.

On 8 July the Police Service of Northern Ireland (PSNI) announced a criminal inquiry by the police, which is now being led by the National Crime Agency (NCA).

The Committee agreed to develop terms of reference for the purpose of setting out a framework for the Committee to continue with its inquiries whilst seeking to minimise the risk of its work inadvertently prejudicing the ongoing criminal investigation by the NCA and taking into account the risk of undermining the fairness of any future court proceedings.

Purpose: To undertake a fact-finding review in relation to the operations of NAMA in Northern Ireland, including the 'Project Eagle' sale and related policy and regulatory issues that fall within the DFP remit.

Objectives: The key objectives of the review include establishing the factual position in relation to:

- the relationship between DFP and NAMA in respect of the Agency's operations and assets in Northern Ireland, including the role of DFP policies and actions in relation to NAMA's operations and assets in Northern Ireland and the response of NAMA to the actions of DFP.
- the role of DFP in the establishment of and appointments to the NAMA Northern Ireland Advisory Committee (NIAC), and the detail of the subsequent relationship and interaction between DFP and NIAC (including its members);
- matters relating to the sale of the NAMA property loan portfolio in Northern Ireland, including the basis, rationale and implications of any actions by DFP in this area and whether relevant requirements and standards have been complied with in that regard; and
- the role, functions and practices of the Law Society in regulating the profession of solicitors in light of the matters arising from aspects of Project

Eagle and in the wider context of DFP's proposed legislation for the regulation of the legal profession in Northern Ireland which is currently being scrutinised by the Committee.

Output: The intention is that the review will result in an evidence base and public record of factual information arising from the Committee's fact finding in relation to its objectives. As part of the fact-finding the Committee will also seek to establish a timeline of events, meetings and correspondence. The Committee will also gather further evidence to inform its scrutiny of the proposed legislation on the regulation of the legal profession in Northern Ireland.

Constraints: Where appropriate, information will be made available to the relevant authorities by the Committee.

Work Schedule: The following preliminary work schedule is proposed at this stage. This is so the Committee can remain responsive to any developments in relation to these matters.

Thursday 23 July 2015	Consider Terms of Reference for Committee Review Consider provision of papers by DFP Initial oral hearing from senior DFP officials Identify any further witnesses to invite to Committee
w/c 27 July 2015	[To be used if witnesses unavailable on other dates]
w/c 3 August 2015	Oral hearings from NAMA (TBC) and/or the Law Society (TBC) and/or former Ministers
	Further meetings to be scheduled taking account of the availability of Members and witnesses and evidence received.

Appendix 2 - Questions for Written Response

Solicitors' Accounts

1. How is the operation of solicitors' accounts regulated?
2. Other than the Law Society, which, if any, organisations play a role in regulating the operation of solicitors' accounts?
3. How does the Law Society ensure compliance with the relevant regulatory framework?
4. What role does the Law Society have in ensuring that solicitors maintain proper accounting systems and control over these systems?
5. Are solicitors required to share accounting information with the Law Society? If so, for what purpose is the information provided?
6. Are solicitors required to alert the Law Society immediately to any irregularities they become aware of regarding the operation of their accounts?
7. In what circumstances would the Law Society initiate an inspection of solicitors' accounts?
8. What mechanisms are in place to identify breaches in this regulatory framework?
9. In general terms, how are breaches of the regulations handled by the Law Society?

Handling Client Money

10. For what purposes can client money be held in solicitors' accounts?
11. Who in a law firm is legally authorised to handle the firm's accounts, including, but not limited to, making transfers from those accounts?
12. What methods can a solicitor use to make a withdrawal from a client account?
13. Are there any limits on the purposes for which a solicitor can withdraw money from a client account?
14. What happens to 'client money' which is being held in a client account when a reason for holding it no longer exists? Who would be responsible for identifying any such 'client money'?

Unqualified persons

15. Under the Solicitors (Northern Ireland) Order 1976 limitations are placed on solicitors acting as agents for, or sharing profits with, persons who are not qualified to act as solicitors ('unqualified persons').
 - a. In which circumstances are solicitors permitted to act as agents for unqualified persons?
 - b. In which circumstances are solicitors permitted to share profits or fees with unqualified persons?

The Law Society inquiry.

16. There have been a number statements attributed to the Law Society regarding its inquiry., Can the Law Society:
- confirm which statements it has made;
 - confirm when statements were made and by whom they were made;
 - provide a copy of all statements to the Committee?

17. Why did the Law Society wait until Tuesday 7 July 2015 to publicly comment on this matter?

The Society said that it “does not comment on whether or not there is any investigation ongoing in relation to any particular matter or firm”.

Can the Law Society confirm that in the past it has not commented on any ongoing investigation?

18. The Irish News reported on 6 July that Tughans have at times been unhappy with how the Law Society has dealt with the investigation.
- did Tughans communicate this to the Law Society?
 - what, if any, concerns were raised by Tughans? and what was the Law Society’s response?

19. When and how did the Law Society decide to carry out an inquiry?

20. It is reported¹ that Tughans self-reported an issue to the Law Society.

- would the framework for regulating Solicitors activities have identified the issue, if Tughans had indeed not self-reported?
- how would the framework have done so and within what timescale?

21. The statement from the Law Society on 7th July² 2015 contained the following comments:

“Mr Coulter did not renew his practising certificate in January 2015 and therefore is not practising as a solicitor in Northern Ireland.

Mr Coulter remains on the roll of solicitors in Northern Ireland and therefore remains subject to the Regulations of the Law Society of Northern Ireland.”

How does the Law Society explain the apparent confusion that has arisen regarding the status of Mr Coulter and the remit of the Law Society in relation to actions?

22. To what extent does the remit of the Law Society differ in relation to solicitors who
- are on the roll and hold a practicing certificate and (b) are on the roll of solicitors but do not hold a practicing certificate?

¹ <http://www.bbc.co.uk/news/uk-northern-ireland-33433199>

23. Where a solicitor is alleged to have acted inappropriately in the past whilst on the roll of solicitors in Northern Ireland but is no longer on that roll, to what extent are such allegations subject to investigation by the Law Society?
24. The Law Society Statement made on 7th July³ stated that: The inquiry has been conducted in accordance with procedures designed to ensure the proper discharge of the Law Society's regulatory duties.
- a. Can the Law Society explain what these procedures are and who they involve?
 - b. When did the inquiry begin and under what particular authority has it been undertaken?
 - c. Is the inquiry completed?
 - d. What are or were the terms of reference of the inquiry?
 - e. Who specifically is or was undertaking it?
 - f. Have (or were) any conflicts of interest been declared or identified in relation to the involvement of any person/s in the inquiry?

³ <http://www.lawsoc-ni.org/news-events-and-media/news/item/1209/statement-from-the-law-society-of-northern-ireland/>