



**Northern Ireland
Assembly**

COMMITTEE FOR FINANCE AND PERSONNEL

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25 November 2015

Joe Rice
John J Rice & Co Solicitors
(Issued via email to: [REDACTED])

Dear Mr Rice,

Sale of NAMA Assets in Northern Ireland

I write with reference to your email correspondence of 22 September 2015 in which you indicated that your client, Mr Frank Cushnahan, would be willing to continue his written engagement with the Committee and has agreed to respond to any written questions which the Committee may raise.

As you will be aware, since July 2015, the Committee for Finance and Personnel (CFP) has undertaken a fact finding review on policy and regulatory issues which fall within the remit of the Department of Finance and Personnel (DFP) relating to the operations of the National Asset Management Agency (NAMA) in Northern Ireland, including the sale of the Northern Ireland (NI) property loan portfolio (NI portfolio) which is sometimes called 'Project Eagle'.

CFP agreed its 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 National Crime Agency, and taking into account the risk of undermining the fairness of any future court proceedings.¹

To facilitate CFP in meeting the specific objectives set out in the review's Terms of Reference, CFP seeks to ascertain key facts relating to Mr Frank Cushnahan and his

¹ The terms of reference of the CFP's review can be found at:

<http://www.niassembly.gov.uk/O/documents/finance/inquiries/nama/agreed-terms-of-reference-.pdf>

role in matters that are relevant to the NAMA sale of the NI portfolio, including all interactions between Mr Frank Cushnahan, NAMA, the Republic of Ireland's Department of Finance (RoI DoF) and the DFP.

Such information will assist CFP in fulfilling its scrutiny role and in holding DFP to account in this matter. Note that any references in this correspondence to NAMA, the RoI DoF, the NI Executive, the Office of First Minister and deputy First Minister (OFMDFM) and the DFP includes, but is not limited to, any and all present and former ministers, officials, advisors, officers, agents, employees and committees of each of them.

At its meeting on 25 November 2015, the Committee agreed to submit the attached list of questions (**Appendix**) for written response by your client. I would appreciate your client's response to each of the questions raised by no later than noon on 18 December 2015. Should you have any questions in this regard, please contact the Committee Office on 02890 521843.

I also wish to respond to your letter of 17 November 2015 and to advise that the Committee will give close attention to the points which you raised on behalf of your client in response to the evidence received from Mr Gareth Graham on 3 September 2015. The Committee has of course offered your client the opportunity to respond to the evidence presented by Mr Graham and is willing to further facilitate Mr Cushnahan in that regard. The Committee is still engaged in an evidence-gathering process. At the conclusion of that process it will consider all the evidence it has taken (including written submissions by and on behalf of witnesses) before it sets out the Review findings.

Yours sincerely,

A large black rectangular redaction box covering the signature area of the letter.

Daithí McKay MLA
Chairperson, Committee for Finance and Personnel

Appendix - Questions for Written Response by Mr Frank Cushnahan

Interests

1. Were you or are you a shareholder, director, board member, committee member, business/corporate/ministerial advisor of, or did you have any other interest or involvement in any body corporate or incorporate or any asset that was owned, is owned or may be acquired by NAMA?
2. If your response to question 1 is yes, please provide full details, including of timeframes, in relation to:
 - what asset
 - any holding company, parent company or subsidiary of that asset
 - the nature of your interest in the asset
 - the nature of your role in relation to the asset
 - your responsibilities in relation to the asset
 - your activities in relation to the asset
3. If your response to question 1 is yes, please provide full details of any declaration of your interest in the asset, when that declaration (if any) was made, and to whom that declaration (if any) was made. Please confirm whether any declaration was made, and to whom, prior to your taking up the NIAC position and or nomination, or at the time of taking up the position when your nomination was made?
4. In the past, who, if anyone, asked you to declare those interests and how did you do it? What was required of you, e.g. complete relevant forms? At what intervals?
5. In the present, who, if anyone, asks you to declare those interests and how; what is required of you, e.g. complete relevant forms? At what intervals?
6. Please explain your past and present and any future business operations, activities and assets in NI.

Relationships and the sales process

7. Please explain the nature of the relationship, if any, between you and the DFP in NI in the past and present.
8. Please explain the nature of the relationship, if any, between you and the OFMDFM in NI in the past and present.
9. Please explain the nature of the relationship, if any, between you and the DoF in the RoI in the past and present.

10. Please explain the nature of the relationship, if any, between you and Cerberus in the past and present.
11. Please explain the nature of the relationship, if any, between you and PIMCO in the past and present.
12. Please explain the nature of the relationship, if any, between you and Fortress in the past and present.
13. In relation to your replies to questions 7-12, please provide full details of any and all communications and or meetings relating to them.
14. In relation to any and all such communications, please provide full details, including copies, notes and minutes.
15. In relation to any and all such meetings, please provide full details, including dates, attendees, invitees, communications, agendas and minutes.

NAMA, including NIAC

16. Who nominated you to be an External Member of the NAMA Northern Ireland Advisory Committee (NIAC)?
17. How were you approached, i.e. from the time when the idea arose, to when you were selected, to when you were on the NIAC?
18. Who nominated you for reselection as an External Member of the NAMA Northern Ireland Advisory Committee (NIAC)?
19. How were you approached, i.e. from the time when the idea arose, to when you were selected, to when you were reappointed onto the NIAC?
20. On each occasion, i.e. when nominated for appointment and reappointment, how did you think you were qualified to undertake that position?
21. How were you selected to be a NIAC External Member, e.g. was there an application process, an interview? What was the criteria?
22. What were your roles and responsibilities as an External Member of the NAMA NIAC *vis-à-vis* the NIAC and the Board?
23. Did you attend NAMA Board meetings? If so, how often?
24. How often were you asked to provide an opinion/feedback to the NAMA Board and the NIAC?

25. Did you provide it in writing and or orally? Was it given only when asked and or proactively?
26. Are there notes, communications, minutes or other recording your opinions/ feedback?
27. What information was made available to you by NAMA, including the Board and the NIAC, and others, e.g. those in the DoF, the DFP or the OFMDFM, so that you could effectively and efficiently discharge your roles and responsibilities?
28. As a NAMA NIAC External Member, what responsibilities did you have to politicians in NI and RoI generally and those in ministerial posts?
29. Why did you resign your NIAC External Member post six months early?
30. After your resignation, were there any restrictions placed on you in terms of, e.g., business and development? If so, detail those restrictions and how you ensured that you complied with them?
31. Were there any communications or meetings between you, the NAMA Board and NIAC, the DoF, the DFP, the OFMDFM, PIMCO, Cerberus, Fortress or others about your resignations from the NAMA NIAC?
32. In relation to any and all such communications relating to question 31, please provide full details, including copies, notes and minutes.
33. In relation to any and all such meetings relating to question 31, please provide full details, including dates, attendees, invitees, communications, agendas and minutes.

Fee arrangements

34. Did you communicate and or hold meetings with DFP or others about arrangements, agreements, negotiations or expectations concerning payment of fees (potential or actual) relating directly or indirectly to the NAMA sale of the NI portfolio?
35. In relation to any and all such communications, please provide full details, including copies, notes and minutes.
36. In relation to any and all such meetings, please provide full details, including dates, attendees, invitees, communications, agendas and minutes.
37. Please provide full details of any and all communications or meetings between you and any party about arrangements, agreements, negotiations

or expectations concerning payment of fees (potential or actual) relating directly or indirectly to the NAMA sale of the NI portfolio; of which DFP was on notice.

38. In relation to any and all such communications, please provide full details, including copies, notes and minutes.
39. In relation to any and all such communications, please provide full details, including dates, attendees, invitees, communications, agendas and minutes.