

DÁIL ÉIREANN

AN COISTE UM CHUNTAIS PHOIBLÍ

COMMITTEE OF PUBLIC ACCOUNTS

Déardaoin, 18 Nollaig 2014

Thursday, 18 December 2014

The Committee met at 10 a.m.

MEMBERS PRESENT:

Deputy Áine Collins,	Deputy Mary Lou McDonald,
Deputy Paul J. Connaughton,	Deputy Gabrielle McFadden,
Deputy Joe Costello,	Deputy Patrick O'Donovan,
Deputy Robert Dowds,	Deputy John Perry,
Deputy Sean Fleming,	Deputy Shane Ross.

DEPUTY JOHN MCGUINNESS IN THE CHAIR.

BUSINESS OF COMMITTEE

Mr. Seamus McCarthy (*An tArd Reachtaire Cuntas agus Ciste*) called and examined.

Business of Committee

Chairman: Are the minutes of the meeting of 11 December 2014 agreed?

Deputy Joe Costello: Do we have any further information on the national paediatric hospital? Did those involved come back with anything?

Clerk to the Committee: They have not come back yet but I will follow up again today. They were to come back.

A Deputy: Is there anything from Bord na gCon?

Clerk to the Committee: There is nothing from Bord na gCon either.

Deputy Joe Costello: Is there anything from Gerard Ryan?

Clerk to the Committee: No, he has not written back.

Deputy Joe Costello: He has not responded to the dossier. Is that the case?

Clerk to the Committee: No, he has not responded.

Chairman: He has received the transcript.

Clerk to the Committee: I have confirmed that he has received the transcript.

Deputy Joe Costello: I wish to ask about another item. I asked before about the Dublin Docklands Development Authority. After representatives from the authority appeared before the committee a number of items needed to be addressed urgently. Do we have any information on that, Chairman?

Clerk to the Committee: The up-to-date information I have is that the 2013 accounts were signed off by the authority this week. They will go to the Comptroller and Auditor General for signing. We should be in a position to call representatives from the authority in after Christmas. Once the accounts are signed off they should be available to us. I will schedule an early meeting with them.

Deputy Joe Costello: I have no wish to cut across either you, Chairman, or the clerk but I am calling for this to be scheduled for January and I will explain why. NAMA and Dublin City Council have moved to take over the strategic development zone area in the docklands. Nevertheless, it appears that the Dublin Docklands Development Authority is still disposing of property. It would seem those in the organisation are using the dying days of their authority to dispose of prime property sites. It is a matter of consideration as to how and why that should be happening. Before any further sales go through it would be appropriate to have DDDA representatives before the committee to explain what exactly is going on in respect of taxpayers' money.

Chairman: Are there any other matters? No.

I will set out correspondence since our meeting on Thursday, 11 December 2014. First we

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will deal with correspondence from Accounting Officers. No. 3A.1 is correspondence dated 10 December 2014 received from Mr. Seán Ó Foghlú, Department of Education and Skills, re follow-up to our meeting of 15 May. This is to be noted and published. Next is correspondence dated 9 December from Mr. Brendan Ryan, Accounting Officer of the Courts Service, regarding follow-up to our meeting of 23 October. This is to be noted and published. This correspondence is relevant to our forthcoming report on wards of court. Deputy Deasy has queried the cost of cancelled court sittings. I suggest we write to the Courts Service and ask for a detailed analysis of those costs. No. 3A.3 is correspondence dated 10 December from Mr. Jim Breslin, Secretary General, Department of Health. This is a follow-up to our meeting on 6 November 2014. This is to be noted and published.

Individual correspondence is next. No. 3B.1 relates to terms and conditions of employment at University College Cork, UCC. This to be noted and forwarded to the Department of Education and Skills for a note on the matters raised. No. 3B.2 is correspondence received from the Department of Finance regarding liability for local property tax. This is to be noted and a copy forwarded to Ms Naughton, who raised the original query. No. 3B.2 is correspondence received from a HSE employee, who wants to remain anonymous, regarding the extent to which many staff of the HSE have received upgrades. This is to be noted and forwarded to the Department of Health and the HSE for a note on the matters raised. No. 3B.4 is correspondence received from the Institute of Technology, Tralee, regarding money spent on the design of Kerry sports academy. This is to be noted. Is this to be published?

Clerk to the Committee: We can publish that. That is no problem.

Chairman: No. 3B.5 is correspondence received from Seán Ó Foghlú, Department of Education and Skills, regarding a report received anonymously regarding CIT. This is to be noted and published.

No. 3C is correspondence relevant to today's meeting. No. 3C.1 is correspondence received on 17 December 2014 from Mr. Brendan McDonagh, chief executive of NAMA, regarding his opening statement. This is to be noted.

No. 4 relates to reports, statements and accounts received since our meeting of 11 December 2014. They are listed from 4.1 to 4.8 and there is a clear audit in each case. All of these accounts are to be noted.

Our work programme is now on the screen. Our next meeting is on 22 January. It will deal with the financial statements of the Higher Education Authority and the Comptroller and Auditor General, Special Report No. 85, relating to accountability and governance at the National College of Art and Design. The part of the meeting dealing with the financial statements of the HEA will include the various institutes of technology. Is that correct?

Clerk to the Committee: Yes, we can raise broader issues.

Chairman: We should flag this for the HEA and the Department of Education and Skills. The issues in respect of the various colleges brought to our attention through correspondence will be raised with them on the day. Will representatives from the Department of Education and Skills be present?

Clerk to the Committee: Yes.

Chairman: Will the deputation include the Accounting Officer?

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Clerk to the Committee: Yes. I will check that.

Chairman: We should ask the Accounting Officer about it because there are several issues that still have not been dealt with. It is like the issue raised by members earlier in respect of the paediatric hospital and Bord na gCon. There are outstanding matters to be dealt with by the Department of Education and Skills. First, we should agree the work programme for the next meeting. We have already agreed to Deputy Costello's proposal for an early meeting with the Dublin Docklands Development Authority. We will fit that in sometime in January, if we can, depending on the availability of the DDDA. Is there any comment on the work programme?

Deputy Robert Dowds: My query is not on the work programme but on other issues.

Chairman: Let us deal with the work programme first. Any other business is the next item. Is the work programme agreed? Agreed.

Deputy Robert Dowds: My first point relates to the correspondence from an anonymous member of the HSE. It would be useful to look at the response that we get from the health authorities when it comes back, because many of us suspect that more is spent on administration than front-line services in the HSE. If true, this affects the quality of service people get.

The second matter relates to the meeting last week. I was most unhappy with the response of the representatives of the Central Bank to the questions I put to them. I understand we have written to them to get a proper response. I am going to hold on this for a while, but if we do not get a satisfactory response I will ask that we write a letter of complaint to the Governor of the Central Bank. The unwillingness or inability, whichever it was, of the representatives to answer questions was absolutely unacceptable as far as I am concerned.

Chairman: I am going to ask the clerk to check this by way of writing to the officials that were before the committee. In the case of some of the questions asked of them they were simply unable to answer, reluctant to answer or did not want to answer. I am unsure which it was. In any event, there was a question in respect of their role in the Central Bank. I understand one of the officials knew about the background of the Newbridge Credit Union issue that was raised. We need to find out more about it because of the lack of information that was coming forward. We should first write and clarify and then we can take it from there.

Deputy Robert Dowds: The issue I was most frustrated by was their unwillingness to discuss why there were so many restrictions on credit union lending, which is a very important issue because it holds back our economy by making it difficult for people who want small loans to get on with their business. I felt it was an important question and an obvious question that they might have expected.

Chairman: Since we were dealing with a particular fund on that day, the relevant officials to the question were here. We may need to clarify the issues the Deputy raised by writing to the Central Bank and determining the answers. Then, we can take it up at our January meeting.

Deputy Robert Dowds: Thank you.

Clerk to the Committee: That is fine.

Mr. Seamus McCarthy: Under legislation, there is a restriction on the Governor of the Central Bank's accountability to the Committee of Public Accounts. There may be difficulty getting answers on any matter that is outside the scope of the credit institutions resolution fund.

Deputy Robert Dowds: Would it apply to the question I asked?

Mr. Seamus McCarthy: It could. It may relate to functions that are proper to the normal business of the Central Bank rather than to the credit institutions resolution fund. The Deputy may need to examine it before he phrases a letter.

Deputy Robert Dowds: It is a cause of great frustration, and that is why I raised the issue.

Deputy Joe Costello: On a related matter, there was a statement from the president of the Irish League of Credit Unions to the effect that it was going to invest €1 billion in the new housing strategy. It is related to lending matters and perhaps it could be included in the question as to how it envisaged this enormous amount of money, considering there are great restrictions on small and medium enterprises in terms of the lending practices.

Clerk to the Committee: How that can happen will be part of the follow up that will be in the minutes of today's meeting. The committee will probably follow up on it in due course. There is a need to safeguard the funds of the credit unions so they can get a return and the money is not just sitting in banks. This matter arose last week. The Department of Finance has an involvement in it and we will raise it with both the Department and the Central Bank.

Deputy Áine Collins: I apologise for my non-attendance yesterday. I was not aware the meeting had gone ahead. Before the National Asset Management Agency, NAMA, comes in today, I ask that the committee consider bringing in some developers who have exited NAMA to discuss their experience and see the value or loss to the economy it has caused. I am not naming anybody in particular; several developers have exited NAMA. I would like that to go ahead in the new year.

Chairman: Yesterday, some Members of the Oireachtas met with an individual. I am sorry about the mix up. I did not realise.

Deputy Patrick O'Donovan: I, too, apologise for not being here. I thought it was on Tuesday and made arrangements for yesterday.

Chairman: The meeting was very informative. I suggested it some time ago and maybe we can discuss it with the clerk and bring about some way of listening to their experience.

Deputy Áine Collins: The timing is right. People have exited and it would be interesting to hear what they have to say.

Clerk to the Committee: At the time, the Chairman raised it with me and we were concerned that if people were involved in legal action against NAMA, they would not want to be used as a vehicle. The danger was that NAMA might have taken enforcement action against them. We will examine it.

Deputy Áine Collins: Many of them have gone through the system and come out the other end, and they are not all legal actions.

Chairman: I would support it and we will find a way to arrange it early in the new year.

Deputy Áine Collins: That would be great, thank you.

Chairman: A number of pieces of correspondence have come in this morning and I will pass them on to the clerk of the committee. Although some of them have nothing to do with the

Committee of Public Accounts, they are addressed to us and the clerk will have to write back. Last week, we received a reply from the Secretary General of the Department of Education and Skills about doing a report into Cork Institute of Technology, CIT, and the audit committee. It will go before the governing body in early December, after which the HEA will be apprised of the position. It is close to Christmas, and I would like to find out from the Department whether the investigation or report has been completed and whether it was conducted by independent people. Today, I received a registered letter containing another document relating to CIT. I ask the clerk of the committee to publish or circulate it. It raises very serious issues with which we will have to deal in the new year.

Clerk to the Committee: There is a letter today, 3B.5, which deals with CIT. One of the issues the Chairman raised was whether the investigation was conducted by independent consultants, and Mr. Ó Foghlú has said it was. Although they are in correspondence with us, maybe we will raise it with them formally in January.

Chairman: If you could. We received another letter today by registered post from HL Commodity Foods on an issue with which we were dealing and which Deputy Costello raised. We will circulate it to members. We dealt with the Irish Sports Council, ISC, and a letter arrived by courier yesterday evening. It is a detail of a reply to issues raised regarding Millstreet. At our meeting with the ISC, I felt it was agreed that an effort would be made, again, to mediate between the parties involved because there is an exposure to the State. This did not happen. In this correspondence, I am told that the people we asked to do it were busy with other matters. The committee asked that some form of mediation would take place and it is not good enough to send this letter by registered post the day before a meeting of the Committee of Public Accounts because it was raised at a previous meeting. I ask the committee to agree to get in touch immediately and insist that the mediation we requested be encouraged, requested and done as soon as possible.

We have agreed our agenda for 22 January 2015, when we will deal with Special Report No. 85 of the Comptroller and Auditor General on accountability and governance of the National College of Art and Design and the financial statements of the Higher Education Authority. Today, we are dealing with No. 7, the 2013 financial statements of NAMA. I remind members that we can deal in a general way with NAMA, its accounts, activities, processes and procedures but not with individual cases.

National Asset Management Agency Financial Statements 2013

Mr. Brendan McDonagh (*Chief Executive Officer, National Asset Management Agency*) called and examined.

Chairman: Before we begin our examination of the financial statements of the National Asset Management Agency, NAMA, I remind members, witnesses and those in the Visitors Gallery to turn off their mobile phones as they interfere with the sound quality and transmission of the meeting.

I advise witnesses that they are protected by absolute privilege in respect of their evidence to the committee. If they are directed by it to cease giving evidence on a particular matter and continue to do so, they will be entitled thereafter only to qualified privilege in respect of their evidence. They are directed that only evidence connected with the subject matter of these pro-

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ceedings is to be given and asked to respect the parliamentary practice to the effect that, where possible, they should not criticise or make charges against a Member of either House, a person outside the House, or an official by name or in such a way as to make him or her identifiable.

Members are reminded of the provisions within Standing Order 163 that the committee should refrain from inquiring into the merits of a policy or policies of the Government or a Minister of the Government, or the merits of the objectives of such policy or policies.

I welcome from NAMA Mr. Frank Daly, chairman, and Mr. Brendan McDonagh, CEO. I ask Mr. McDonagh to introduce his officials.

Mr. Brendan McDonagh: I am joined by Ms Aideen O'Reilly, head of legal division; Ms Mary Birmingham, head of asset management division; Mr. Donal Rooney, chief financial officer; and Mr. Seán Ó Faoláin, head of strategy and communications. I am also joined by Mr. Declan Reid from the Department of Finance.

Mr. Seamus McCarthy: As the committee has already heard the witnesses speak on the 2013 financial statements and section 216, I do not have anything further to add to what I presented previously.

Chairman: I thank Mr. McCarthy and invite Mr. McDonagh to make his opening statement.

Mr. Brendan McDonagh: In this brief opening statement I propose to update the committee on the major progress made by NAMA in 2014 in what has been an important and successful year for us across the broad range of our activities.

NAMA which was established almost exactly five years ago to the day has generated €23.2 billion in cash since its inception. Taking into account the €500 million in senior debt that was redeemed yesterday, NAMA has now redeemed €9.1 billion in senior bonds this year and a total of €16.6 billion to date, equivalent to 55% of the senior debt we initially issued to the banks. This means that we are more than half way towards repaying our total debt of €31.8 billion, comprising €30.2 billion of senior debt and €1.6 billion of subordinated debt. We are two years ahead of our strategic plan debt redemption targets. To put the progress made this year into perspective, we had redeemed a cumulative 25% of our senior debt by the end of 2013. In 2014 alone we have redeemed another 30% of that debt. Our aim is to redeem a cumulative 80%, equivalent to €24 billion, of senior debt by the end of 2016 and we hope we will have redeemed all of it by the end of 2018. This target is predicated on conditions in the Irish market remaining favourable and NAMA being in a position to retain sufficient specialist staff to enable it to generate the optimal financial return from the realisation of its residual loan portfolio.

Our faster than anticipated progress on debt redemption has been made possible by the major improvement in conditions in the Irish commercial property market in the past 18 months and the depth of investor capital being deployed towards Ireland. The volume of direct investment activity in the Irish commercial property market is likely to exceed €4 billion in 2014, but this does not tell the full story. When all activity, including loan sales, is taken into account, it is estimated that the aggregate value of all Irish market transactions in 2014 will be well in excess of €12 billion. The much improved market conditions have given us a strategic opportunity to de-risk our portfolio and reduce the Government-guaranteed contingent liability exposure of Irish taxpayers. At the start of 2013 taxpayers had a total contingent liability of close to €40 billion to IBRC and NAMA. Following loan sales by the IBRC special liquidators and asset and loan sales by NAMA, particularly in the past year, taxpayers' contingent liability has been

reduced to €13.6 billion. This very substantial reduction in taxpayers' contingent liability exposure deserves to be highlighted as we approach the end of 2014. It may be noted that Standard & Poor's, when upgrading Ireland's credit rating to an A rating just two weeks ago, referred to the significant contribution of NAMA's deleveraging activity on the sovereign's enhanced creditworthiness.

We have been before the committee and others in the past and have had to defend ourselves against the view that perhaps we have been too soft on debtors by allowing them to retain part of the income from their asset cashflows as salaries. More recently, there seems to have been a suggestion we have been too demanding of some debtors. We disagree with both assertions. Our approach is very clear, consistent and straightforward. We look for settlements with debtors which are fair and reasonable by reference to the assets available and to the interests of all parties, including taxpayers. Our approach to dealing with any debtor - large or small, co-operative or unco-operative – is to be resolute but fair. We seek the course of action which will deliver the best return for taxpayers but which is also within the debtor's capacity to deliver, given our knowledge of his or her assets and the remaining assets available to him or her to meet his or her debt obligations. The NAMA board has a statutory obligation to pursue debtors so as to secure the best achievable outcome for taxpayers. Most debtors work consensually with us, but, unfortunately, in some cases litigation is the only feasible option available. For instance, this can arise in cases in which debtors refuse to acknowledge they are liable for their debts, where they fail to declare assets or where there is evidence of the transfer of assets.

NAMA is prohibited by law from discussing any individual debtor's confidential business in the same way as a bank would be. When there is litigation, with cases usually due for hearing before the High Court or the Commercial Court, we are faced with additional obligations not to discuss matters which are *sub judice*. We are not, therefore, in a position to comment on coverage by the media of cases which are due before the courts, no matter how much the current coverage may fail to indicate the true position. The rationale for our actions only becomes evident when the full facts of the case emerge during court hearings. We leave it to the courts to determine any matter of fact and law which is in dispute between parties. I contend that NAMA has been far more patient in its dealings with debtors than many corresponding private sector commercial banks or private equity entities would be in similar circumstances. However, as a commercial entity itself, it cannot allow negotiations to continue indefinitely in circumstances where there appears to be no meaningful prospect of reaching a settlement which is fair and reasonable to all parties, including the interests of taxpayers.

When we last appeared before the committee in May this year, following publication of the Comptroller and Auditor General's section 226 review of NAMA, there was some discussion of possible performance measures for NAMA. The Comptroller and Auditor General's report had included recommendations to the effect that the NAMA board should set an expected or target rate of return to measure its overall performance and that it should also measure its performance by reference to targets for the return on disposals and property held by debtors and insolvency practitioners. The board has further reviewed these recommendations and last week approved a number of rate of return measures which it considers appropriate for its business. We have issued an invitation to staff of the Office of the Comptroller and Auditor General to meet us to discuss the approach we propose to adopt and after these discussions we intend to report on these new measures in our 2014 annual report.

In addition to the progress made on debt reduction, we are also pleased with the progress which has been made in facilitating the development of the Dublin docklands strategic devel-

opment zone, SDZ. I reiterate what I have stated before: NAMA is not a developer and has no ambitions in this regard. However, with a number of important strategic sites in the North Lotts and Grand Canal Dock areas of the Dublin docklands under the control of our receivers, we are well placed to co-ordinate and drive the potential and delivery of viable commercial and residential projects in this area. What NAMA can provide is the oversight, funding and co-ordination to ensure these sites which are of national importance will be developed in a phased and cohesive manner in order that office and other accommodation will come on stream in line with market demand. Clearly, this cohesiveness would be much more difficult to achieve if the sites were controlled by numerous different owners. We have prepared a detailed business plan which includes strategies for each of the sites within the SDZ in which we have an interest. These comprise 75% of the 22 ha of developable land in the area and our initial appraisal suggests that up to 3.4 million sq. ft. of commercial space and 1,848 apartments could potentially be delivered if all these sites were to be fully developed over the next five to seven years.

Over recent weeks, we have announced a number of initiatives which will kickstart the docklands development. We will provide funding to the site receivers to initiate the planning process for the development of the landmark Boland's Mills site in Dublin's south docklands. The planning application submitted by the receivers includes proposed office, residential, cultural and retail development totalling almost 400,000 sq. ft.

NAMA is a minority shareholder in a qualifying investor fund, QIF, with Oaktree Capital, known as the south docks fund, which has recently submitted a planning application to Dublin City Council for the development of over 450,000 sq. ft. of office and residential accommodation at 5 Hanover Quay and 76 Sir John Rogerson's Quay in the docklands. Subject to planning approval by Dublin City Council, construction is likely to begin during the first quarter of 2015 and the new developments are expected to accommodate up to 2,400 workers and 158 apartments.

We are also a minority shareholder in another QIF with Oaktree Capital, the city development fund, which will begin the construction of a new building comprising 50,000 sq. ft. of office space at 6-8 Hanover Quay. When completed, the building will accommodate 300 staff in the European headquarters of a major US-based corporation.

Yesterday, we announced that Oxley Holdings limited, a company which is quoted on the Singapore stock exchange, is our preferred bidder for a key site at 72-80 North Wall Quay, next to the proposed new headquarters of the Central Bank of Ireland. Subject to completion of the transaction, Oxley will acquire a long leasehold interest with the right to develop, manage and realise the site. NAMA will retain the freehold interest and will receive a secure income stream, in addition to a percentage of any future sales proceeds.

Oxley was selected as preferred bidder after the completion of a competitive tendering process that was launched in June 2014. In its proposal, Oxley envisaged a development of more than 645,000 sq. ft. of grade A office space, with capacity for up to 5,500 employees, and the delivery of over 200 apartments. The planning application is likely to be submitted in early 2015 and, subject to this, it is envisaged that construction will begin in late 2015 or early 2016.

In total, these initiatives are expected to provide over 1.5 million sq. ft. of office, retail, residential and cultural accommodation in the docklands. This will make a major contribution to addressing the shortage of high-quality grade A office space in the Dublin central business area where vacancy levels are just below 3% and, by so doing, will facilitate IDA Ireland in continuing to attract and grow FDI activity and employment in Ireland. It is estimated that the

new offices, when completed, will accommodate over 10,000 workers. We estimate that these initiatives will result in the creation of over 10,000 jobs in the construction sector and another 2,500 jobs in ancillary sectors.

We are not wedded to any particular approach when setting strategy for individual SDZ sites. We have made it clear that we are in a position to fund all of the development if that is required, but we are also conscious of the need to ensure that not all of the risk falls on taxpayers. For that reason, we see substantial scope for private investors to provide the necessary funding for at least some of the sites. For each site, it will be a matter of which strategy offers the best risk-adjusted return for NAMA. We also see the docklands being developed on a phased basis, with new construction being funded in line with proven prospective demand rather than on a purely speculative basis.

It is worth pointing out also that NAMA is making its contribution to addressing residential supply shortages in the greater Dublin area. In April of this year, we established a dedicated in-house residential delivery team to co-ordinate and drive the delivery of our commitment to facilitate the completion of 4,500 residential units in the period to the end of 2016 and to assess the scope for delivery of additional units thereafter. We have exceeded our end-2014 target of funding the delivery of 1,000 residential units and we expect that another 1,500 residential units will be delivered in 2015 with the residual to be delivered in 2016.

In addition, we are facilitating preparatory work on a second group of sites in the greater Dublin area which are currently in the planning process or where additional planning work is required. If all of these sites achieved planning permission and were to be developed, it is estimated that they could deliver over 27,000 residential units in the years after 2016.

We are also contributing, to the greatest extent that we can, to the provision of social housing. Local authorities have confirmed demand for just over 2,000 of the 5,500 houses and apartments that we made available to them for social housing. By the end of this year, we will have exceeded the target of delivering 1,000 of these units for social housing and expect to deliver the remaining social housing units over the course of 2015. This is based on the assumption that local authorities and approved housing bodies confirm their intention to buy or lease the properties. We have no role in that.

In addition, we have committed, through our special purpose vehicle, to delivering Part V social housing on all new housing developments that NAMA will fund. This means that NAMA will bear the up-front capital cost of constructing these units and local authorities will not have to seek off-site solutions due to financial constraints, as was the case in the past.

As regards the provision of accommodation to homeless people, we responded positively to the recent request from the Minister for the Environment, Community and Local Government, Deputy Alan Kelly, to identify potentially suitable accommodation. We identified four unoccupied office buildings in central Dublin and a former hotel in Tallaght which might be suitable, if appropriately modified, as accommodation for homeless people. We understand the Department does not consider the office buildings to be suitable, but is currently assessing the suitability of the hotel. We have indicated our willingness to provide a loan to one of the local authorities for the purchase of the hotel if it is deemed to be suitable.

I thank the Chairman and committee members for their time and attention. My colleagues and I are happy to respond to any issues that they may now wish to discuss.

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Chairman: Can we publish your statement?

Mr. Brendan McDonagh: Absolutely.

Deputy Mary Lou McDonald: One of the areas Mr. McDonagh cited as a concern in terms of continued NAMA performance is the retention of specialist staff. He has raised this issue before and we have debated it. What are the current staffing numbers in 2014?

Mr. Brendan McDonagh: We currently have around 377.

Deputy Mary Lou McDonald: 370.

Mr. Brendan McDonagh: Yes.

Deputy Mary Lou McDonald: I am correct in saying that represents an increase from 224 in 2012 to 331 in 2013.

Mr. Brendan McDonagh: Yes.

Deputy Mary Lou McDonald: That does not suggest any flight of staff from the organisation.

Mr. Brendan McDonagh: The issue is that more senior staff are leaving and we have had to replace them with more junior staff.

Deputy Mary Lou McDonald: Alright. There has also been an increase in the payroll bill from 2012 to 2013 and 2014. I am correct in saying that.

Mr. Brendan McDonagh: Yes, as we employed more staff.

Deputy Mary Lou McDonald: What is the quantum of that increase?

Mr. Brendan McDonagh: In 2012, as we have to pay all our costs, including payroll costs, back to the NTMA, we would have paid €37 million. In 2013 it was just over €37 million. I think it will be about €40 million this year.

Deputy Mary Lou McDonald: NAMA's numbers have increased and payroll costs have also increased. What is the average salary level of staff members? How does it average out? I looked at some of the figures earlier. I reckoned payroll, including salary and pension liability, averaged out at about €93,000 or €94,000.

Mr. Brendan McDonagh: About €90,000.

Deputy Mary Lou McDonald: About €90,000. There has not been a dramatic shift in that from 2012.

Mr. Brendan McDonagh: No.

Deputy Mary Lou McDonald: That does not suggest any great change in the profile of NAMA's staffing.

Mr. Brendan McDonagh: There are more staff at lower salaries and some people at higher salaries have left.

Deputy Mary Lou McDonald: The payroll costs have increased and the average has not

shifted dramatically. I am not gainsaying-----

Mr. Brendan McDonagh: I do not have the figures to hand, but a couple of years ago our average was probably closer to €100,000 and has decreased to about €90,000.

Deputy Mary Lou McDonald: I thank Mr. McDonagh. He made reference in his presentation and in previous meetings to the buoyancy in the property market, both residential and commercial. He has attributed some of his successes, as he sees them, to that fact. Given that, why have the impairment costs or assessments increased?

Mr. Brendan McDonagh: Is the Deputy referring to the end of 2012 and 2013?

Deputy Mary Lou McDonald: Yes.

Mr. Brendan McDonagh: There are two very specific reasons for that which are outlined in our 2013 annual report. One is that when we did the impairment exercise for 2010 to 2012, the board had a policy of looking two years out in terms of what the values of assets would sell for. For the year ended 2013 the board decided to extend the exercise and to look three years out. That meant a technical adjustment and looking at today's values three years out rather than two years out. That contributed to an adjustment of €500 million. We also had over 500 smaller debtors, which were managed by the participating institutions. We assessed them on what is termed a collective assessment basis rather than by individual assessment. This was subject to some comment in the Comptroller and Auditor General section 226 report. We delved into the matter in more detail and we increased the impairment on that book. Those debtors have smaller and more regional assets and we increased the impairment by €300 million on that book.

Deputy Mary Lou McDonald: Does Mr. McDonagh accept that this goes against the grain of common sense?

Mr. Brendan McDonagh: No.

Deputy Mary Lou McDonald: On the one hand, there is increased buoyancy in the market-----

Mr. Brendan McDonagh: The buoyancy really occurred in the latter half of 2013 and certainly during 2014.

Deputy Mary Lou McDonald: NAMA could not have forecasted that. Is that what Mr. McDonagh is saying?

Mr. Brendan McDonagh: Effectively, there is a lag effect in terms of looking at the portfolio. We go through a detailed exercise on 31 December each year. That is audited by the Comptroller and Auditor General. We carry out a detailed assessment - as does the Comptroller and Auditor General - of what the impairment figure should be, taking account of all the circumstances and given the size of our portfolio. We started off with 60,000 individual property units. We produce a representative sample of the valuations and that is why the exercise throws out a particular figure. At the end of the day, the board must accept that figure. Furthermore, to get our accounts signed off by the Comptroller and Auditor General, he must be satisfied that it is a reasonable figure.

Deputy Mary Lou McDonald: Presumably, the NAMA assessment is based on a detailed analysis of market conditions and the peculiarities of portfolios or individual properties. Is that the case?

Mr. Brendan McDonagh: Absolutely.

Deputy Mary Lou McDonald: Obviously, the ability of NAMA to accurately assess the value of any asset is relevant as well.

Mr. Brendan McDonagh: It is a judgment exercise.

Deputy Mary Lou McDonald: It is a matter of judgment.

The key responsibility of NAMA from the point of view of the taxpayer is the section 10 responsibility to ensure that the agency maximises the return on any given asset.

Mr. Brendan McDonagh: That is the over-riding commercial obligation of NAMA in the legislation.

Deputy Mary Lou McDonald: Will Mr. McDonagh provide some detail on a particular transaction? It involved a particular site on Sir John Rogerson's Quay. NAMA sold the site in 2013 for €7.5 million. A little over a year later the site changed hands for €17.75 million.

Mr. Brendan McDonagh: The dates Deputy McDonald stated are incorrect.

Deputy Mary Lou McDonald: Will Mr. McDonagh give me the correct dates, please?

Mr. Brendan McDonagh: Everyone knows the property market was very depressed in the beginning of 2012. The asset was put up for sale by the receiver between March and May 2012. The best price achieved at the time was €7.5 million. There were 30 expressions of interest in the site. The next best bid on the site was €5 million. Clearly, after open market bidding the offer of €7.5 million was deemed to be the price to take. The people who bought the site did so for a particular purpose. They bought it for student accommodation. They sought planning permission and ultimately were refused planning permission. They decided to sell on the site in late 2013, almost a year and a half after buying it. The market had completely improved in that time. They sold it and it was bought by a special purchaser who had acquired all the other sites around it and needed it for strategic site acquisition purposes to carry out commercial developments. These are the circumstances relating to the site. It was not a year later; it was *de facto* a year and a half or almost two years later.

Deputy Mary Lou McDonald: Regardless, Mr. McDonagh does not dispute the fact that it was passed on for considerably more than the price for which NAMA sold it?

Mr. Brendan McDonagh: The market had completely changed in the meantime.

Deputy Mary Lou McDonald: Mr. McDonagh has stated that. Our job is to scrutinise these matters.

Mr. Brendan McDonagh: Absolutely.

Deputy Mary Lou McDonald: This is an isolated individual case. Given the size and the value of the NAMA portfolio it is probably a small matter in one regard, but it does give rise to concerns, I believe, notwithstanding the time lag of a year and a half or two years. The fact that NAMA sold it at one price and it subsequently changed hands for more than double that price raises questions for people in terms of the broader portfolio and its management and whether this is a feature of NAMA transactions.

Mr. Brendan McDonagh: I do not accept that it is a feature of NAMA transactions. We are

not in the privileged position - nor is anyone I know - of knowing the optimal time to sell an asset. Since the Irish property market was in such a state of distress we took a tactical or strategic decision to sell very little property in the period from 2010 to 2013 and rather to concentrate on overseas sales where the market was more buoyant. We also had to generate cashflow in the meantime. The committee will recall that as part of the troika obligations we had to pay off €7.5 billion of our debt. We got the money to pay off that debt mainly by selling overseas assets. Certainly, where assets were sold they were openly marketed. As I said to Deputy McDonald, a total of 30 bidders looked at the site in question. The best bid was €7.5 million and the next best bid was €5 million.

Deputy Mary Lou McDonald: I heard all that. I do not expect Mr. McDonagh to have the gift of seeing into the future; I accept that. However I do not accept Mr. McDonagh saying glibly that no one can predict exactly the right time to sell on an asset. Is that not what NAMA is charged with doing? NAMA is charged with making those judgments.

Mr. Brendan McDonagh: Yes.

Deputy Mary Lou McDonald: I am instancing this transaction. We have discussed previously the fact that NAMA is not an organisation or body that is amenable to close scrutiny by parliamentarians like us because of commercial sensitivities and the commercial nature of NAMA's task. That is what we are told and that is the position set out by NAMA. I am citing this instance and raising a concern around it.

Perhaps Mr. McDonagh could leave off his NAMA hat for a moment. It does not look great from the taxpayers' point of view, does it? NAMA sells on a site, albeit in the circumstances described by Mr. McDonagh, then, less than two years later, it is sold on at double the previous value. I put it to Mr. McDonagh that this does not inspire confidence to the average five eighths looking on.

Mr. Brendan McDonagh: Deputy McDonald is referring to an individual transaction. There are many other transactions where we might have achieved €50 million or €100 million more than the market had been indicating.

Deputy Mary Lou McDonald: How does the taxpayer get sight of that data?

Mr. Brendan McDonagh: All that data is reflected in our financial statements. The Comptroller and Auditor General is the independent constitutional officer and he has access to all documents and papers as part of his audit. We have no issue-----

Deputy Mary Lou McDonald: Have there been high profile instances where NAMA has sold an individual property or portfolio of properties here or overseas at what transpired to be a greatly depressed level? Obviously, NAMA monitors these things. Has the agency ever entered into a transaction in good faith and with the best judgment available only to discover one year or 18 months later that the same portfolio or property has changed hands for multiples of what NAMA received for it?

Mr. Brendan McDonagh: No, we are not aware of instances where that happened wholesale. There can be isolated instances but this is what the capital markets are about. Circumstances change and certain areas of business become fashionable at one time and unfashionable at other periods. We must take the best advice at the point when we are making a given decision. It is an evidence-based decision at a given time. We have a full audit trail of the advice that we have taken and the reasons for a given decision.

Deputy Mary Lou McDonald: Does NAMA keep an eye on properties that have passed through the hands of the agency, that have moved from NAMA debtors to others or for which NAMA has had a responsibility? Does NAMA monitor their subsequent movements?

Mr. Brendan McDonagh: We would certainly have an interest in terms of what is going on in the market.

Deputy Mary Lou McDonald: Does NAMA do that in a systematic way?

Mr. Brendan McDonagh: I would not say that we do it in a systematic way but we are very aware of what goes on in the market. It is our job to make sure. To sort of say that everybody who buys an asset off NAMA cannot do something with that asset to improve it-----

Deputy Mary Lou McDonald: I did not say that. That is not the point.

Mr. Brendan McDonagh: The point is that you have a buyer and seller in every transaction and some people will make money and some people will lose money, but in general terms when we make a decision we have to live with that decision. We have to personally sign-off on that decision saying that it is evidence based and that it was the best achievable price we could get at that point in time given the circumstances.

Deputy Mary Lou McDonald: When NAMA makes that decision, not alone does Mr. McDonagh live with it but we all do.

Mr. Brendan McDonagh: Absolutely.

Deputy Mary Lou McDonald: As part of the assessment of performance, which Mr. McDonagh referred to in his paper, it would be wise to analyse and track even a sample of those properties systematically as a reference point for performance and to make decisions on the quality of the judgment at which NAMA arrives.

Mr. McDonagh laid heavy emphasis in his presentation on NAMA's relationship and dealings with debtors. His first assertion is that in the past NAMA had to defend itself against the view that it was being too soft on debtors. I presume that refers, in the first instance, to those developers who work for NAMA by managing properties on its behalf. Is that what that was a reference to?

Mr. Brendan McDonagh: That and also people making suggestions that we are leaving a debtor with X, Y and Z.

Deputy Mary Lou McDonald: Can Mr. McDonagh remind the committee how many developers are managing assets for NAMA?

Mr. Brendan McDonagh: At the moment, the number who we are allowing to take income out of it is 122.

Deputy Mary Lou McDonald: Can Mr. McDonagh give us a rundown on the levels of income that those individuals take?

Mr. Brendan McDonagh: We permit three debtors to take €200,000, 13 to take between €150,000 and €199,000, 32 to take between €100,000 and €149,000, 47 to take between €50,000 and €99,000; and 26 to take between zero and €49,000. There are up to 122 debtors and the overall aggregate costs of that this year will be about €10 million.

Deputy Mary Lou McDonald: Do those persons get any additional bonuses or incentives?

Mr. Brendan McDonagh: No.

Deputy Mary Lou McDonald: Is there any proposal to introduce any such scheme for these persons whom, I note, Mr. McDonagh refers to as principals rather than debtors?

Mr. Brendan McDonagh: They are the borrowers. I suppose we are in this situation now where we are trying to work out the portfolio and realise the best value for the portfolios. We are also trying to get a number of other things done, like trying to get 4,500 houses built, at the same time.

Deputy Mary Lou McDonald: That is true, but that was not my question. I am asking, in addition to those salary levels, is Mr. McDonagh minded, is he considering or has he put forward any proposal to award additional incentives or bonuses to this set of individuals?

Mr. Brendan McDonagh: That is something that is under consideration the whole time by NAMA.

Deputy Mary Lou McDonald: Has Mr. McDonagh made such a proposal officially to anyone?

Mr. Brendan McDonagh: Not at the moment.

Deputy Mary Lou McDonald: Is Mr. McDonagh planning to do so?

Mr. Brendan McDonagh: We have to take the circumstances into account the whole time, as the market changes, to try and achieve the objective that is set for us in terms of realising the best value for the assets.

Deputy Mary Lou McDonald: These three individuals who are getting a salary of €200,000 might be awarded additional incentives and bonus payments.

Mr. Brendan McDonagh: We have to look, in the round, at what is going to produce the best commercial return for NAMA.

Deputy Mary Lou McDonald: I accept that. Is Mr. McDonagh considering the possibility of additional bonuses and incentives for these persons, including the 13 who earn between €150,000 and €199,000?

Mr. Brendan McDonagh: Yes, but there would be few persons in NAMA who would be potentially eligible for that.

Deputy Mary Lou McDonald: Maybe that explains Mr. McDonagh's concern about a view that might have been taken that NAMA was soft on some debtors. For the people out there, those are very big salaries, particularly since everyone is carrying the can for the chaos that we all landed in. They will note with interest the possibility that these individuals might, in fact, be incentivised to work out the assets.

Mr. McDonagh stated that NAMA has a clear and consistent approach in respect of debtors, that it is "resolute but fair". He made reference then to the fact that litigation can arise in respect of dealings with the debtors. Could he give us some figures for the number of court actions that have been taken or with which NAMA has been involved? I am not asking him to comment on any individual case but I want to get an overall sense of how many actions there are in the High

Court and the Commercial Court.

Mr. Brendan McDonagh: I suppose overall, in terms of litigation, we are involved as far as I can recall in over 120 cases.

Deputy Mary Lou McDonald: At various stages?

Mr. Brendan McDonagh: Yes.

Deputy Mary Lou McDonald: Are they all commercial?

Mr. Brendan McDonagh: They are all commercial.

Deputy Mary Lou McDonald: How many of those have come before the courts?

Mr. Brendan McDonagh: I do not have the figures at hand but I could come back to Deputy McDonald on that. They all would eventually probably make the courts unless there is a settlement beforehand.

Deputy Mary Lou McDonald: Is that the current number in which NAMA is involved?

Mr. Brendan McDonagh: I think so, yes.

Deputy Mary Lou McDonald: Does Mr. McDonagh have a figure from day one or year zero?

Mr. Brendan McDonagh: That is the cumulative figure.

Deputy Mary Lou McDonald: How many of those have gone through a mediation process?

Mr. Brendan McDonagh: I would say - I do not have the figures at hand - we always explore mediation as an option but I would say probably less than 10%.

Deputy Mary Lou McDonald: Less than 10% is very low, is it not?

Mr. Brendan McDonagh: Yes, but two sides have to want to engage in mediation.

Deputy Mary Lou McDonald: Of course. Would it always be NAMA's preference to opt for mediation?

Mr. Brendan McDonagh: Absolutely. It is very much the preference, in particular, of the Commercial Court, that people would try to engage in mediation and where it is proposed, we would never refuse to go into mediation.

Deputy Mary Lou McDonald: That is why I am surprised that it is 10%. Obviously, mediation is the preferred route to resolve these.

Mr. Brendan McDonagh: We cannot always control this ourselves.

Deputy Mary Lou McDonald: Would NAMA always be keen on mediation and co-operate fully with it?

Mr. Brendan McDonagh: Absolutely.

Deputy Mary Lou McDonald: What does NAMA do in the mediation process? Are

NAMA's legal representatives there?

Mr. Brendan McDonagh: Yes.

Deputy Mary Lou McDonald: Who attends on behalf of NAMA? Would it be Ms O'Reilly?

Mr. Brendan McDonagh: It would usually be the case solicitor who works for Ms O'Reilly, a solicitors' firm if we have one and our barrister, and usually the case manager who is dealing with the case.

Deputy Mary Lou McDonald: Would NAMA enter into it in the spirit of resolving all of the matters?

Mr. Brendan McDonagh: Absolutely. The whole point of mediation is trying to come to a settlement rather than go before the courts. It is much cheaper. It is better for all parties.

Deputy Mary Lou McDonald: I am surprised. I agree with Mr. McDonagh that such is the way to sort these matters out. It is more cost effective in the first instance but also, arguably, the fairer and sane way of doing things. Given that NAMA is enthusiastic for this approach, it strikes me as all the more odd that only 10% of cases are dealt with in this way. Is that because debtors are set against this process? Has that been Mr. McDonagh's experience?

Mr. Brendan McDonagh: I cannot-----

Deputy Mary Lou McDonald: I am asking Mr. McDonagh to comment generally. I am not asking him to comment on individual cases. There must be a reason 90% do not go to mediation.

Mr. Brendan McDonagh: We are always open to mediation. We go through an extensive engagement process with debtors, with extended correspondence. If it does end up in court, we are always available to do that. We do not control everything.

Deputy Mary Lou McDonald: Does NAMA seek mediation or is it open to mediation?

Mr. Brendan McDonagh: There have been instances where we have sought mediation and we have never refused it.

Deputy Mary Lou McDonald: NAMA has never refused mediation.

Mr. Brendan McDonagh: No.

Deputy Mary Lou McDonald: I ask Mr. McDonagh to briefly talk us through the stages of NAMA's engagement with the debtor.

Mr. Brendan McDonagh: If the Deputy does not mind, I will ask our head of legal to respond as she is more versed in that area.

Ms Aideen O'Reilly: There is ongoing engagement with debtors at all levels and across the book by case managers supported by legal advice from my team. I think the Deputy's question is very much focused on cases that are in litigation or pre-litigation. One of the characteristics of the litigation that we or any other bank is involved in is that we tend to seek judgment for fixed sums. Quite a few cases are resolved speedily through the summary procedures in the Commercial Court and do not, therefore, go to plenary hearing. The issues can be quite net. In

quite a number of cases judgment is granted on consent, so the defendants consent to the entry of judgment in a fixed sum. That tends to deal with quite a number of cases.

In relation to mediation, in some cases the court will suggest mediation and in other cases one or other party will suggest it. As Mr. McDonagh noted, we have never refused an offer of mediation and in certain cases we have suggested it. Mediation is quite a structured process. There are at least two professional mediation bodies and we would always choose an accredited mediator in consultation with the other party. The rules of the mediation are governed by a mediation agreement which both parties enter into with the mediator. It is the mediator who sets the rules and parameters of the mediation and both parties comply with these rules.

Deputy Mary Lou McDonald: As part of that mediated process and in the interests of reaching a settlement, I presume there is full disclosure of all the relevant facts and figures and both parties are in a fully informed position.

Ms Aideen O'Reilly: Absolutely. The mediation can take place at various stages of the litigation. It may take place before or after pleadings are closed or before or after discovery. It is an absolute principle that the appointed mediator will have read all the pleadings and supporting documentation.

Deputy Mary Lou McDonald: Both parties will be equally informed in respect of all the issues at hand. There would be no circumstances in which information on valuations and so forth would be withheld from a debtor.

Ms Aideen O'Reilly: Absolutely not. It is important also to state that it is the mediator who has control over the process. It is, therefore, the mediator who facilitates the flow of information between both parties and also the flow of positions taken by the parties. When the parties submit to mediation they very much put the whole process in the hands of the mediator.

Deputy Mary Lou McDonald: If, for instance, one of the parties had a query about a valuation NAMA had made on a particular asset, the relevant information would be made available.

Ms Aideen O'Reilly: Yes, if there was a dispute as to a valuation, one would clearly expect that dispute to be central to the mediation. It would, therefore, be the mediator's job to deal with that issue in the context of the wider dispute.

Deputy Mary Lou McDonald: I am not raising an issue of where something is disputed but the issue of the provision of full information by both sides.

Ms Aideen O'Reilly: Yes, my point is that if a valuation had been exhibited to an affidavit, which is essentially the written form of evidence one normally has in judgment proceedings, both sides would have access to that valuation. If one side wanted to put forward a valuation, it is free to put it in front of the mediator. What the mediator then does with that valuation is very much a matter for the mediator. The mediator may share that information in various ways with the opposing side, whether that is NAMA or the other party to the litigation.

Deputy Mary Lou McDonald: Can Ms O'Reilly account for the fact that only 10% of cases have gone through mediation?

Ms Aideen O'Reilly: That is an interesting question and it prompts me to ascertain what is the actual market standard as I do not know what it is. I am not sure if the Courts Service keeps statistics on the overall proportion of High Court cases that go to mediation. For this reason, I

am not sure where NAMA is benchmarked in that regard.

Deputy Mary Lou McDonald: It would be interesting to find out. Given that NAMA's stated position is that mediation is the favoured approach, one would imagine-----

Ms Aideen O'Reilly: I have made a note that we should ascertain whether the Courts Service maintains those statistics.

Deputy Mary Lou McDonald: Perhaps Ms O'Reilly will keep the committee informed. How many cases has NAMA lost?

Ms Aideen O'Reilly: We would have to get the numbers for the Deputy. We maintain these figures on a quarterly basis for our unaudited accounts. I think we have lost one of the cases taken against NAMA as well as one of the eight cases we have initiated.

Deputy Mary Lou McDonald: I am good at maths and that makes two.

This is not an attempt to put words in Mr. McDonagh's mouth but I detect from his presentation that NAMA is sensitive to the frustrations felt by parliamentarians that the agency almost has a hermetic seal around it and that we can ask so much and nothing more. This feeling is shared by some debtors as a result of their experiences with NAMA. Mr. McDonagh referred to a process of engagement and so forth. Does NAMA always meet with a debtor with whom it is in dispute?

Mr. Brendan McDonagh: Yes.

Deputy Mary Lou McDonald: Is it custom and practice to do so?

Mr. Brendan McDonagh: Yes.

Deputy Mary Lou McDonald: Is NAMA amenable to doing that?

Mr. Brendan McDonagh: We have met all our debtors.

Deputy Mary Lou McDonald: Has Mr. McDonagh personally met all of them?

Mr. Brendan McDonagh: No, I generally do not get involved in meeting debtors because I have people at senior level who meet all of them.

Deputy Mary Lou McDonald: There are no obstacles put in the way of meeting them.

Mr. Brendan McDonagh: We try to work consensually with all our debtors to get the best solution. All of the debtors in NAMA have met the agency many times.

Deputy Mary Lou McDonald: Mr. McDonagh does not believe NAMA is in any way dismissive of or heavy-handed with its debtors.

Mr. Brendan McDonagh: We have to be tough because we have a job to do. I believe in being tough and fair but not in being heavy-handed. NAMA must operate within the law.

Deputy Mary Lou McDonald: Yes, it certainly must. Would it be fair to argue that there appear to be different classes of debtor? Some debtors work for NAMA to work things through while-----

Mr. Brendan McDonagh: The majority of debtors by value - approximately 70% by value

of the portfolio - work with NAMA. Approximately 70% of the overall NAMA portfolio by value who have 70% of the assets that we hold are consensual debtors who work with NAMA.

Deputy Mary Lou McDonald: One is left with 30%.

Mr. Brendan McDonagh: For one reason or another, the debtors in respect of about 30% of the portfolio have not worked with NAMA, which has resulted in enforcement.

Deputy Mary Lou McDonald: NAMA seems to be particularly anxious about transfers of assets by debtors to other family members.

Mr. Brendan McDonagh: If there are assets available and there are debts, we certainly have to look at that.

Deputy Mary Lou McDonald: I am conscious of time. I will ask one slightly off-topic question and contribute again later if that is alright. My question relates to the property of a NAMA debtor on Leeson Street, namely, the premises of the Dublin Rape Crisis Centre. The organisation, with which I am sure Mr. McDonagh is familiar, is in dire financial straits. It has made a financial offer for the property. I know Mr. McDonagh will inform me that he cannot comment on the matter and it will be subject to normal procedure. However, I raise with him the fact that in addition to its section 10 responsibilities, which we discussed, NAMA must also take broader social considerations into account. Certainly nobody in this city or beyond would wish to see the Dublin Rape Crisis Centre without a premises.

Chairman: Before calling Deputy Paul J. Connaughton, I ask the witnesses to clarify the position on a question asked by Deputy Mary Lou McDonald about the mechanics of the mediation process. Is it the case that NAMA has its representatives in one room, that the client has his or her representatives in another and that somebody is going to and fro between both parties, or do all parties sit around a table to discuss the matter? How does the process work?

Ms Aideen O'Reilly: It is normally the former arrangement, whereby the parties bring whomsoever they wish to bring. They are separate, but the mediator may sometimes bring some or all of them together. There may be side meetings, but the point I wish to stress is that once the parties submit to mediation, it is the mediator who controls the process. It is his or her professional judgment as to what is the best process to follow in a particular dispute.

Chairman: For example, in this room, there is the client and his or her legal representatives. Is that correct?

Ms Aideen O'Reilly: Typically, one would have legal advisers, but one could also have financial or other technical advisers.

Chairman: Likewise, NAMA would have people with the same skills set and so on. The mediator is the person in the middle. Will Ms O'Reilly tell me about the mediator and his or her qualifications generally?

Ms Aideen O'Reilly: As I said, there are two main accreditation bodies which accredit mediators. It often depends on the nature of the dispute. Certain highly technical disputes draw most of their mediators from the disciplines of engineering, science, biochemistry and pharmacy. Quite a number of mediators have a legal background as solicitors or barristers; therefore, the skills set very much depends on the nature of the dispute. It is fair to say many of the mediators I have come across in my current practice have been lawyers.

Chairman: One would have lawyers on one side, lawyers on the other side and lawyers in the middle.

Ms Aideen O'Reilly: One has a mediator in the middle.

Chairman: As Ms O'Reilly said, a mediator generally has a legal background. What does she say to an individual who sees this as the might of the State against the citizen? On one side one has NAMA with all of its expertise, knowledge of law and figures, developers and individuals, land and transactions. On the other side one could have a developer with the same expertise or an individual with far less ability or finance to have representation equal to that available on the other side. The mediator is in the middle who, possibly, is also a lawyer. Is there an imbalance in representation?

Mr. Brendan McDonagh: No, not at all.

Chairman: Does Mr. McDonagh accept that there is an imbalance?

Mr. Brendan McDonagh: No, I do not because the mediator's job is to-----

Chairman: I asked a question; I did not make a statement. I asked Mr. McDonagh if he thought there was an imbalance?

Mr. Brendan McDonagh: No.

Chairman: I read in the newspaper about people who believe they were bullied, harassed or intimidated in the processes in place. We also read about the imbalance that the citizen believes there is in how he or she is represented against the State. I will read the answer from the Minister for Finance, Deputy Michael Noonan, to a parliamentary question I tabled:

...any debtor with a concern or complaint in relation to their dealings with NAMA should directly contact them. All such queries and complaints are fully investigated by the Chairman and CEO.

Mr. McDonagh has informed Deputy Mary Lou McDonald that he does not meet debtors.

Mr. Brendan McDonagh: I have met people.

Chairman: Mr. McDonagh has said he does not meet people.

Mr. Brendan McDonagh: I said I generally did not meet them.

Chairman: Let us say Mr. McDonagh hears about a complaint from an individual or a family who feels the process is not working for them, that they do not have the same level of information as NAMA on a valuation or whatever else it might be and are so intimidated that they cannot get their message across in the mediation process - one will find such people - and then make a complaint, for example, to Members of the Dáil or the Seanad. I am asking Mr. McDonagh that if he were to receive a complaint from an individual who felt the process had not served him or her well - I do not know if there is anybody who feels that way - would he meet him or her?

Mr. Frank Daly: We would investigate the complaint. That is what is said in the reply to a parliamentary question.

Chairman: That is not the question I asked.

Mr. Frank Daly: That is the answer the Chairman quoted.

Chairman: The answer to the parliamentary question states the individual should contact NAMA directly and that “All such queries and complaints are fully investigated by the Chairman and CEO”.

Mr. Frank Daly: Absolutely; that is what we do.

Chairman: Would the Chairman investigate all of them?

Mr. Frank Daly: We would. If complaints are made, we always organise an investigation.

Chairman: What information would Mr. Daly make available to the person making the complaint? Would he say it to the mediator and would he say it to his or her legal representatives? Is there a process of appeal where a person feels aggrieved for one reason or another?

Mr. Frank Daly: To go back to the point the Chairman made about the mediator, it is a well respected process that is actively encouraged by the courts, as Ms O’Reilly said. I find it very difficult to accept that the process is as flawed as the Chairman seems to indicate in his question, that there is heavy handedness and that it is back-----

Chairman: I am not saying that is my opinion; I read the remark which had been made.

Mr. Frank Daly: I am responding to the Chairman’s question.

Chairman: I am not saying that is my opinion but that I have heard the comment made. I am saying there are individuals who hold that point of view. I am asking Mr. Daly, in view of the fact that NAMA is geared by taxpayers money, if he would turn around to these individuals who had made a complaint about the company and say, “I would like to hear what you have to say about where the service fell down or why you feel you did not get all of the information, in order to make the process fair and transparent,” as stated by him in his opening statement.

Mr. Frank Daly: Where somebody has a complaint to make about NAMA or the way it handles something, it is open to him or her to contact it and he or she is actively encouraged to do this. We have stated publicly on a number of occasions that any complaint about NAMA will be investigated by the chief executive officer and the chairman and that is what we do. Obviously, there is a response to whoever complains to us. Let me be very clear that this is what will happen. To again go back to the mediation process, I know that the Chairman says he is quoting reports, but it is very difficult for me to accept that NAMA approaches mediation in a heavy handed way. We do not; we enter the process on the same basis that we approach all issues to do with debtors, as outlined in Mr. McDonagh’s statement. It is robust but fair. At the end of the day, as far as I am aware, mediators in any mediation process are very conscious of the fact that both sides have to receive an open and full hearing and have to have full access to all of the facts. If somebody has a complaint to make about NAMA, he or she should and is encouraged to write to it about it, with the undertaking that the chief executive officer and I, as chairman, will investigate it and respond to him or her.

Chairman: I have heard the complaints and will tell and encourage those concerned who feel the process did not serve them very well to get in touch with the chairman and the chief executive officer of NAMA to see what their response is. Any such complaint should be treated carefully because the welfare and wellbeing of individuals are at stake. Of course NAMA has to do a job for the taxpayer. If you did not do it you would probably be in here for another rea-

son, but we have to have some humanity, compassion and understanding of what is going on.

Mr. Frank Daly: All complaints made to NAMA are treated fairly.

Chairman: I will get the individuals to complain and I will monitor the process just to see how fair it is.

Deputy Paul J. Connaughton: I welcome the deputation. I have a final comment on mediation. I realise Mr. McDonagh said that only a small number go to mediation, perhaps 10%. Of that 10%, how many are actually successful at the end of the process?

Mr. Brendan McDonagh: The majority have been successfully concluded in mediation. Ms O'Reilly may correct me but I am only aware of probably two cases which did not conclude in a settlement in mediation and which had to go through the courts subsequently.

Deputy Paul J. Connaughton: Does NAMA ever come back for a second go at mediation?

Mr. Brendan McDonagh: We are always open to any proposal any time that will achieve a fair settlement. That is my personal position. It is better for everyone to try to avoid litigation as much as possible. The door is always open for any reasonable proposal to be made to us and such proposals are always considered.

Deputy Paul J. Connaughton: In his opening statement Mr. McDonagh set out his contention that NAMA has been far more patient in its dealings with debtors than many corresponding private sector commercial banks or private equity entities in similar circumstances. How did Mr. McDonagh work that out?

Mr. Brendan McDonagh: The way I work it out is that we are five years into NAMA now. The first loans transferred to NAMA at the end of March 2010. The evidence shows that we try to find a workable solution. It may not always be a solution that is comfortable for NAMA - let us be frank - but it would be one we believe is the best outcome in terms of getting the maximum value for the assets through working with debtors. The evidence shows that we had situations at the start when people were absolutely opposed to working with NAMA but they are now productively working with NAMA and helping us to maximise the value of the assets. Debtors who have 70% of the assets by value are working with NAMA. That is a strong indication that we do our best to work with them and to try to find a solution. When NAMA started off, the deal was that all 800 debtors would be put into insolvency straight away. The view was that was the best way to deal with it, but we never saw that as the best way to deal with it. We took the view it was the best solution to try to work with debtors wherever possible.

Deputy Paul J. Connaughton: I am trying to work out what experience Mr. McDonagh has, whether personal or otherwise, in respect of dealing with banks. Mr. McDonagh maintains that NAMA is doing it better than the way they do it.

Mr. Brendan McDonagh: We see what is going on with other banks in terms of solutions and the approaches they take. We engage at a senior level with other banks. We talk generally about what is going on in terms of how to deal with debtors and case management here and internationally. Many of the people we meet maintain that they cannot believe we are five years down the road and that we still might have a debtor with whom we are suddenly in litigation after five years. Their view is that people should know after 30 days whether a debtor will work with them. The evidence shows we are doing our best to work with the majority of the debtors.

Deputy Paul J. Connaughton: Performance measures were mentioned at the last meeting. Mr. McDonagh referred to a board meeting last week to examine some of those measures. Can Mr. McDonagh give an indication of what some of those measures were?

Mr. Brendan McDonagh: We have to enter discussions with the Office of the Comptroller and Auditor General. I am keen to respect that because the office has made the recommendation. Our view is that NAMA bought the assets from their banks. We overpaid for the assets. That was the conclusion of the European Commission, which recently signed off on the NAMA process. The Commission said we overpaid by €5.6 billion compared to anyone else. We bought assets costing €74 billion for €31.8 billion. The question is how much cash of the €31.8 billion or more over the life of NAMA we can recover. We have designed an entity-rated return because no one will know how NAMA has done until the agency sells its last asset. However, an entity-rated return takes account of our performance in terms of the cash we have realised to date and the value of the residual portfolio. We will fully explain it in our report. We have considered this a good deal. We came up with a proposal that went through our board finance committee. Then it went forward to the board last week. The recommendation of the board was that while they accepted it, they would prefer for the executive to discuss it with the Comptroller and Auditor General with a view to publishing it with our 2014 performance and audit figures. It will be a market standard measure.

Deputy Paul J. Connaughton: We are five years into NAMA at this stage. Mr. McDonagh's belief is that because the property market has picked up NAMA is beginning to realise more money and it is coming in now. I imagine the intention is that NAMA would be wound up far quicker. Is there any chance that by the time this gets implemented NAMA will be gone anyway?

Mr. Brendan McDonagh: No, because our annual report is usually published in May. The 2014 report will be published subject to audit by the Comptroller and Auditor General. The plan will be to publish it in May 2015. That will give the full detail of our performance from inception-----

Deputy Paul J. Connaughton: It will cover it right through the whole process. Is that correct?

Mr. Brendan McDonagh: Absolutely, yes.

Deputy Paul J. Connaughton: Deputy McDonald mentioned one or two individual projects. I accept that NAMA cannot foresee what the market will do six months or 18 months down the line but when NAMA makes a decision to sell does the agency take advice from others outside in respect of those properties?

Mr. Brendan McDonagh: Yes, with every sale we take advice from the external agent.

Deputy Paul J. Connaughton: Then it is signed off by the board. Is that correct?

Mr. Brendan McDonagh: Ultimately everything is a board decision but there are different levels of delegated authority from the board, depending on the size of the asset. There is dual sign-off on every transaction completed by NAMA. No one person can sign off on anything. Every transaction has to be signed off by two people.

Deputy Paul J. Connaughton: Are there ever concerns that NAMA would sell off some property? Is it possible for the debtors to complain that NAMA did not take advice on board?

For example, they may have expressed the view that if NAMA held onto an asset for 12 months longer then it would have achieved far more for the taxpayer?

Mr. Brendan McDonagh: We certainly have some letters that would contain that view, but we have to take the advice at the point when a decision is made to sell the asset. We take the appropriate external advice and I must be satisfied when I sign my name to approve a sale, along with one of my colleagues, that effectively the file is right. It is fully available to be audited by the Comptroller and Auditor General and effectively we can stand over it.

Deputy Paul J. Connaughton: Does it happen often?

Mr. Brendan McDonagh: Does what happen often?

Deputy Paul J. Connaughton: Does a debtor ever come back and say that he or she tried to tell NAMA that if it simply held on to an asset for 12 months-----

Mr. Brendan McDonagh: The reality is that at the start of NAMA when we got business plans from all the debtors, their view was that we should sell no assets, let the market recover and then sell all the assets in 2020. That was universally the view of all the debtors. They believed this would pass and that the market would recover. We were not in a position such that we could not sell assets because we had obligations to pay off debt.

Deputy Paul J. Connaughton: I realise the end result is to return as much money as possible to the taxpayer, but I imagine Mr. McDonagh is well aware of certain cases. Deputy McDonald mentioned a case earlier in respect of which we could have got more back for the taxpayer if we were somewhat more patient or if we had listened to more internal advice.

Mr. Brendan McDonagh: In the case of some other assets we sold them when it was absolutely the right time to sell and we got a far better return. We do our best to take account of the facts at a particular point. When we make a decision to sell it is evidence-based and we take all the facts into account at that stage.

Deputy Paul J. Connaughton: Where does Mr. McDonagh envisage the property market going in the next 12 months?

Mr. Brendan McDonagh: Does Deputy Connaughton mean in Ireland?

Deputy Paul J. Connaughton: Yes.

Mr. Brendan McDonagh: I have a personal view on commercial property in Dublin. At grade A office space level rents have gone from a high of €55 per sq. ft. at the peak in 2007 down to €27 per sq. ft. and now they are up towards €45 per sq. ft. That is because there is such a shortage of grade A office space available. Rents are probably heading higher towards €50 per sq. ft. That is why we are getting in there. We are involved in four planning applications in respect of 1.5 million sq. ft. of office space in Dublin to try to stop rents getting out of control altogether. We want to ensure offices are available at reasonable prices.

The retail sector has made a remarkable recovery. It is a function of the improving economy. We have several portfolios on the market at present. There are bids on them which are encouraging not only in Dublin but in other parts of Ireland as well. In terms of the residential sector, it went down about 55% in general. It is now down to about 38% from its peak. The residential sector in Dublin is probably under pressure because there is not enough of a supply. We are trying to address the supply issue. Supply is a key element to unlocking the rise

in prices. In terms of the sector outside of Dublin, we have seen price improvements in Cork, Limerick, Galway and the rest of Ireland where NAMA in terms of its portfolio has a limited exposure. There is a graph in the briefing pack we sent to the committee yesterday which shows where our portfolio is. We would not see there being a huge recovery in that market to date. We have limited exposure, I admit, but with what we see it is still quite difficult.

Deputy Paul J. Connaughton: Does Mr. McDonagh think there is a property bubble forming at present?

Mr. Brendan McDonagh: I would not call it a property bubble but prices have an upwards momentum in terms of office space in Dublin, certainly in the central business district, and also in terms of the residential property supply. We would see the biggest movement in terms of family homes in residential properties in the €400,000 to €500,000 bracket. We are involved in funding new developments in Dublin and for first-time buyers there is a pinch point that they cannot go above; once prices go above €280,000, even if there is a nicer house for €290,000 in the same development, people cannot get to that level. There are multiple sub-markets involved in this but supply is an issue and the availability of credit is also an issue in the residential market.

Deputy Paul J. Connaughton: Does NAMA have an opinion on the Central Bank's new regulations on mortgage lending?

Mr. Brendan McDonagh: We must be careful around that but I think I said at the Oireachtas finance committee in October that, effectively, the wider considerations of the market have to be taken into account. We have come from a place where prices went down 55% and now there has been a recovery. We know there has been quite a strong recovery but if we look at the evidence of what has happened in other countries when they introduced measures - the Central Bank has its own job to do - they were probably introduced on a more phased basis than by way of a once-off implementation.

Deputy Paul J. Connaughton: Therefore, Mr. McDonagh thinks the figure of 20% is too high.

Mr. Brendan McDonagh: On a personal level, I think it might be slightly too high, but that is not my job.

Deputy Paul J. Connaughton: I have a final question. Regarding the statement in the presentation that NAMA is not a developer and has no ambitions in this regard, why is there a need to state that so clearly?

Mr. Brendan McDonagh: Because there is a view and we would have heard it, and myself, the chairman and my colleagues would meet the CIF and Property Industry Ireland has asked is NAMA becoming a developer. We have said we are not a developer and that we are there to provide a strategy and funding, if required. That is what we are about. We are not in the business of becoming what traditionally has been a developer and sometimes developers are seen, rightly or wrongly, as being engaged in speculative activity. We are not engaged in speculative activity.

Deputy Paul J. Connaughton: Okay. Thank you, Chairman.

Chairman: In his reply to Deputy Connaughton, Mr McDonagh spoke about the sale of lands. I want to check with him if NAMA evaluates the performance of receivers?

Mr. Brendan McDonagh: Yes.

Chairman: What role does NAMA have in that?

Mr. Brendan McDonagh: We have an in-house receivership team and we do a monthly performance of our receivers in terms of how they are performing in realising the assets, information provision to NAMA, asset management and the fees they charge. All those matters are looked at.

Chairman: Has Mr. McDonagh ever had a complaint regarding a receiver and property and such property being almost allowed to run down and therefore eliminating the possibility of getting the best possible sale price for the taxpayer?

Mr. Brendan McDonagh: We have had complaints about receivers about a number of things. We always fully investigate them. We have not come across a position yet where we found the receiver had not fulfilled his legal responsibilities. The legal responsibility here is very important because the receiver has a legal obligation. He steps into the shoes of the debtor and he has to get the maximum value for the asset. If he does not get the maximum value for the asset or lets the asset run down, he is personally liable.

Chairman: Would the receiver be allowed to employ someone who perhaps has had some other association with NAMA or does a receiver employ someone who is absolutely independent in terms of managing these properties?

Mr. Brendan McDonagh: In many situations the receiver has typically employed not the debtor but people who might have worked for the debtor previously. Receivers use various options in terms of asset management. They can use independent third parties but sometimes they employ the people who used to work for the debtor.

Chairman: In a partnership position we could have one partner in NAMA and the other partner, having declared themselves bankrupt, could still be employed by NAMA. We could have all of that.

Mr. Brendan McDonagh: We have every conceivable type of situation across the 800 debtors in our portfolio.

Chairman: Has Mr. McDonagh examined those specific circumstances to make sure that their business is being properly conducted in that way?

Mr. Brendan McDonagh: Yes. In terms of receivers, they have their legal responsibilities and we also monitor them and if we hear any complaints about them, they are always investigated. In terms of our debtors, if there is any cashflow, such as in a trading business, we employ financial monitors to make sure that the cashflow is monitored appropriately.

Chairman: In all the complaints NAMA received in regard to this matter, would any of those complaints have been withheld or been found to be correct, or would they all have been found to be spurious?

Mr. Brendan McDonagh: We would never regard any complaint as spurious.

Chairman: No. I am talking about the outcome.

Mr. Brendan McDonagh: We have found instances where there may have been an element

of sub-performance and we have addressed that. In the case of a receiver if there was a sub-performance, we would change the receiver.

Chairman: Did NAMA ever delist them or take anyone off its list of receivers?

Mr. Brendan McDonagh: Yes. We have done that.

Chairman: You have.

Mr. Brendan McDonagh: Yes.

Chairman: In terms of the receiver appointing an auctioneer to dispose of some property, does NAMA insist that the auctioneer firm or individual auctioneer appointed is specific to that type of business, in other words, if he or she was disposing of agricultural land, that it would be someone whose name would be attached to that sector, or do you mine?

Mr. Brendan McDonagh: We certainly do mind. We expect all our receivers and debtors when appointing agents, to be mindful that those agents have the appropriate expertise and knowledge.

Chairman: If you had a complaint about that, you would investigate it.

Mr. Brendan McDonagh: Absolutely.

Chairman: An eight acre site was sold for €688,000 in a particular location and the general comment locally is that people were not aware of the sale, that it was sold at a give away price, that there were others interested in it and that the sale of the land did not realise its true value. I raise this matter with Mr. McDonagh because if that was the case, the taxpayer would not have got value, or could have got better value, from the sale of that site. I am told that this is the case. A number of complaints have been made about that site. I am raising this issue because other issues have come up about this particular type of sale and I want to clarify with Mr. McDonagh that every effort is made to maximise the price. Is there a way of investigating that particular sale if it was brought to his attention?

Mr. Brendan McDonagh: Absolutely. To add to what was said previously, myself and the chairman receive letters all the time from people who point out issues to us and I am not aware of the particular instance the Chairman mentioned, but if he wants to give us the information, we will fully investigate it.

Chairman: Okay. I will come back to Mr. McDonagh later on. I call Deputy Perry.

Deputy John Perry: I welcome the chairman and chief executive officer of NAMA and compliment them on the update - as of June - in the report. It is highly impressive and I note that Mr. Daly, as Chairman of the Revenue Commissioners and chairman of NAMA since its inception, certainly has given huge service to the State. I ask him to share his thoughts on NAMA and the challenging job it has been since its inception. What is his sense of the manner in which NAMA discharged its responsibilities and its mandate since its inception? Everybody has challenges and it is said "no problem, no business", but looking back retrospectively, what would he have done differently with regard to the board of NAMA and the people with which it deals? I seek Mr. Daly's thoughts on NAMA at this point in time.

Mr. Frank Daly: I thank the Deputy. As for my thoughts on NAMA right now, let us start where we are, which is in a reasonably good place. In terms of our strategic objectives, we are

well ahead of target. In respect of the debt repayment, we are approximately two years ahead of target. As noted in the opening statement, we have redeemed 55% of our debt as of yesterday and our clear objective now is to redeem 80% of our debt by the end of 2016. While we are confident of that, it is not without its challenges and the two major challenges are keeping the staff we need with the expertise and obviously that the economy and the property market continue to move in the right direction. As of now, however, the primary objective of debt reduction is important both for NAMA and, in the wider scheme of things, for the country. It is vital with regard to its access to the markets, its standing with ratings agencies and in terms of its standing with the European Union, the European Central Bank and all of that.

Along the way, we also have been given two additional tasks, one involving the strategic development zone in Dublin's docklands. Again, we have gone into detail on this and again, we are very positive about it. The most important factor there is that Dublin City Council, not NAMA, is the development agency for the docklands but NAMA has been given a role in respect of co-ordination, cohesion and financing. We are the backstop with regard to financing as in effect, there is a €1.9 billion gross development cost there. We could finance that although we do not really want to be the ones financing it all and consequently are very open to joint ventures and to others coming in with us on that. Again, we are very confident about building out down there in a coherent way in response to demand, rather than in a speculative way and falling into the traps that perhaps were fallen into in the past decade.

On residential housing, including social housing, again the Deputy will see the figures in the opening report. We really are ahead of target on all of those with a mandate to deliver 4,500 houses in Dublin by 2016 and the possibility of up to 25,000 to 27,000 more in the years after that. On social housing, again NAMA is ahead of target in respect of the actual units delivered as of now to social housing bodies. This is important because while there is much talk about doing things in respect of social housing, NAMA actually has delivered. That is our present position across those three strands of debt redemption, the docklands and housing, including social housing, and I think we are in a good place. All of this, every bit of it, is facilitated by cash generation and we have had very good cash generation to date - including this year - probably generating more than €8 billion in cash. In some ways, this is an extraordinary performance, given where we were this time last year and given the targets we had for this year.

The Deputy asked me to carry out a retrospective review of the last five years. It has been very tough at times and has been highly challenging. NAMA has been obliged to deal with nearly 800 debtor connections. We are glad of the fact that we now have ended up working so positively with a high proportion, comprising 70% of them by value. Obviously, we wish to continue with that type of approach.

Looking back, it is hard to say what we would have done differently. If one goes back earlier, one might talk about acquiring the loans earlier but then we were in a process directed by the European Commission and the Government in that regard. I think we called the market right looking back over the past five years. As we were obliged to repay our debt, we had to generate cash. We also were obliged to pay for ourselves as we did not wish to be a drain on the Exchequer. Consequently, we were obliged to sell assets in the early years but I think we made the correct strategic decision to concentrate on selling in the United Kingdom market and to leave the Irish market pretty much alone because it was pretty fragile and damaged and any wholesale replacement of assets on the Irish market just would have made things worse.

Last year, we were able to rebalance that and got into the Irish market at the right time to get the market moving and now with the objective of providing office and residential accom-

modation. That is where we are strategically, with 80% of the debt gone by 2016. Right now, it looks as though that element of NAMA's work, the total debt repayment, will be finished by 2018. Obviously, the docklands and the housing are somewhat longer projects but I suppose they really are a different type of NAMA.

Deputy John Perry: I reiterate my compliments to NAMA on what has been an extraordinary achievement when one looks back to the time of the board's appointment and when one considers that NAMA is two years ahead of its targets. While I compliment the chairman on the leadership given in this regard, I have one or two queries.

In the context of the present position with regard to small businesspeople, I refer to the consortia comprised of small businesses and professionals. Is it correct that they have been left until last, after NAMA has dealt with all the major debtors and portfolios? We now are down to such consortia, which are to be found nationwide and which were made up of legal figures, doctors and similar professionals. Does NAMA have an estimated number of small business owners and professionals involved in such consortiums at present? Up to now, NAMA has not been dealing with that sector aggressively, as it dealt with large portfolios.

Second, I refer to the perspective of large construction companies, many of which went out of business over the period on foot of the wrong decisions that were made. At present there is a conundrum, if one is talking about igniting the economy, with regard to the aforementioned consortia of small businesses and those professional developers or construction companies that are out of business. Perhaps Mr. McDonagh might deal with two questions. How will NAMA deal with the consortia of small businesses who are to be found in every town or village? I note that 200,000 companies employ 700,000 people. I listened closely to what he said about quantifying the best interests of the taxpayer. How does NAMA quantify the best interests of the taxpayer when dealing with these consortia of small business people? Second, how does NAMA propose to ignite the construction economy, which is cash-strapped at present and cannot get the money?

Mr. Brendan McDonagh: In terms of the profile of NAMA debtors that we acquired, the top 180 debtors held the lion's share of debt and accounted for €61 billion of the €74 billion of debt. We dealt with those bigger debtors in-house and then we probably had almost 600 smaller debtors that generally had debts of €75 million or less. We allowed those to be managed by the banks from which we acquired the loans. We did that at the outset because we had to build up the organisation and get the necessary skills in-house. Within the last two and a half years, we have been dealing as much with the smaller debtors as with the bigger debtors. We have redeployed teams in-house to deal with them and have taken the view that sometimes these people got into property speculation and it was not their main daily business. A lot of people have told us that they do not really have any expertise in property development and have agreed to us appointing a receiver to the assets. We have seen many cases where a consortium got together and paid €5 million to €10 million for a small strip of land outside a small town which is now only worth €500,000 or less. We have taken a pragmatic view in such cases. If the debtor is co-operating with us, has no expertise and consents to a receiver then that makes it easier for everyone and if the debtor then makes a reasonable proposal to us in terms of trying to cover some part of the debt shortfall, we accept that. We try to be pragmatic and we also take the legal costs involved into account. We have been working quite well with people when they engage with us in a positive way. Our bottom line is that a debtor must give us full disclosure. If the debtor gives full disclosure and makes a reasonable proposal then we will do a deal because we recognise that everyone has to move on.

In terms of construction companies, the reality is that the levels of unemployment in the construction industry are very high and we are very conscious of that fact. A lot of construction companies got involved in speculative development which brought down their normal construction business. There have been a number of high profile casualties but there are also a large number of small and medium-sized construction companies who are NAMA debtors and whom we are supporting. We are giving them funding to build out developments - ten houses here, five houses there and so forth. It is below-the-radar stuff and not the big office blocks in Dublin and so forth. If something will work commercially, we will provide funding.

Ironically, the complaint now from the Construction Industry Federation, CIF, is that non-NAMA debtors wish they were in NAMA because of the availability of funding to build out commercially viable developments. Many such debtors also have commercially sound proposals but because they are not in NAMA they cannot get any money to build them out, even though it would make sense to do so. In terms of the debtors we deal with, if the proposal makes commercial sense, we will provide the necessary funding. That said, we must always be mindful of the fact that we must justify everything we do and all developments must make commercial sense. NAMA will not be around for ever but while we are around we will certainly provide funding if it will improve the value of any asset. That generates economic activity, not just in Dublin, but elsewhere. We have provided funding for developments in numerous locations once it made commercial sense to do so. In terms of the current NAMA portfolio, approximately €17 billion is remaining but less than €1 billion of that would be outside Dublin, Cork, Limerick and Galway. The majority of our portfolio is in Dublin. However, if it makes commercial sense to develop assets in regional Ireland, we are very happy to fund it.

Deputy John Perry: It is good to hear that NAMA has a strategy for consortia from outside Dublin because there is a two-tier economy operating at the moment. The commercial realities in Dublin are very different to those in the west of Ireland and in smaller towns and villages all over the country. Many people joined property consortia outside of their main business interests and they are finding it very difficult now. Looking back, perhaps things should have been done differently.

Mr. McDonagh made reference to the fact that 620 NAMA clients are working with the intermediary banks. While those banks may have the files and may be liaising with NAMA in terms of reaching an agreement on how to work out the debt, are they co-operating well with NAMA? A lot of NAMA's portfolio consists of loans that it took over from other banks. How is that being dealt with?

Mr. Brendan McDonagh: The liquidation of IBRC forced us to get even more involved with banks. We have in the region of 560 smaller debtors as of today. We have a deep involvement with approximately 400 of those because they were former customers of IBRC. We have also just recently moved to take over the Bank of Ireland portfolio directly. We have approximately 160 small debtors who are still with AIB. We have a team dedicated to working with those debtors and our plan is to become more actively involved in those AIB cases in 2015. We are five years on now and we need to find solutions. We need to determine if something can be done that resolves the difficulties for both sides on a commercial basis.

Deputy John Perry: I am glad to hear that there is an understanding and respect for those involved in consortia. We have all heard about the cases involving larger companies but the backbone of Ireland is small companies. Many of them got involved in ill-conceived investments that were not connected to their main businesses. We need to revitalise that engine of job creation. I would be very interested in receiving a report on the NAMA discussions with AIB.

In questioning NAMA about its operations, we must also incorporate AIB.

I wish to ask about US vulture funds from the perspective of job creation. What is the role of such funds in job creation? This is a very critical time for NAMA and I wish to compliment the board on what it has achieved to date. However, in terms of reaching a final outturn by 2018, the period ahead could be particularly difficult. NAMA will be dealing mainly with residual debt, much of which involves the smaller consortia to which we have referred. While I know NAMA is doing its job well, I hope the intermediary banks will fulfil their mandate too. The US vulture funds have played an important role in the property market in Dublin but they will not invest in the regions. There is a judgment call to be made in that respect.

Mr. Brendan McDonagh: The reality is that the capital that is coming in to buy assets in Ireland is mainly coming from the US through private equity funds. However, they know that there is not going to be quick turnaround here. Most of the funds that we have had discussions with take a medium-term view. While they will not be here for ever, they are looking at a five-year timeframe at least. As the economy recovers, they expect to be re-financed out of the positions they have bought by the recovered banking system. They take the view that the Irish economy will recover strongly over the next five years and that is how they will make a return.

Mr. Frank Daly: There is interest in some of the regional assets that we have put on the market recently, including hotels, shopping centres and so forth. It is good to see that interest and to see investors coming in, not all of whom are US venture funds. The fact is that once these assets are sold, further investment is made. Many of the places in question have not seen any investment for quite some time. It is good to see them being sold and even better that, when they are sold, the new owners put in investment. That means construction jobs and down the line, obviously, there will be better shopping centres and better hotels and so on.

Deputy John Perry: I compliment the element of reinvestment in hotels which will have a massive tourist potential for Ireland. I welcome also the clear vision with which they have been remanaged. I have spoken to a number of developers who got a second chance, which is very important. These are Irish people who have made mistakes but are getting a second chance. That up to 80,000 jobs are being created a certain amount of credit is due to NAMA with its visionary approach towards investment. I am glad to hear it has a vision for the remainder of residual debt within the NAMA portfolio that will ignite social enterprise and social housing, and that it will support developers as we are talking about building 25,000 to 30,000 houses per year. There is a real difficulty in igniting the economy to give developers the necessary funds and the working capital to develop those houses. Therefore, the agency has a critical role to play with its intermediary banks whose loans it is managing to ensure they are given the working capital to start the five, ten or 20 houses. I thank the delegates for that clarification.

Deputy Joe Costello: I welcome the delegation from NAMA. Five years ago this month when we were debating the legislation in the House many had reservations as to whether NAMA would be a success and if it could achieve what was intended. Its presentation and the work that has been done indicates that it has achieved much in the past five years. Its approach was probably right that it would start with the UK market which was still buoyant and then come back to the Irish market later on. Does NAMA think, therefore, when it got a haircut of 55% that it was getting a good deal, despite the opinion of the Central Bank at the time?

Mr. Brendan McDonagh: I do not think we ever thought we were getting a good deal. The valuation parameters were set by the European Commission as to how the assets would be valued. As I have said, we ended up paying almost €6 billion more for the assets of the banks

than the assets were worth but that was part of the European-----

Deputy Joe Costello: Does NAMA expect to have a surplus by 2018?

Mr. Brendan McDonagh: Yes.

Deputy Joe Costello: And it expects to pay all its senior and junior bondholders. Is that correct?

Mr. Brendan McDonagh: That is our current view.

Deputy Joe Costello: Is that a decision that NAMA takes on its own in respect of the junior bondholders or how is that decided?

Mr. Brendan McDonagh: Effectively, more than half the junior bondholders are held by AIB and Bank of Ireland because it was part of the potential loss sharing arrangement in the event that NAMA did not work out.

Deputy Joe Costello: The Irish credit union movement is in that too.

Mr. Brendan McDonagh: No. Some 5% of the price we paid to the banks was in junior debt so it went to IBRC, INBS, EBS, AIB and Bank of Ireland. Obviously with IBRC gone to liquidation, they had-----

Deputy Joe Costello: It is mainly AIB.

Mr. Brendan McDonagh: Half is held by AIB and Bank of Ireland and the other half is now held by international investors who bought the IBRC sub-debt recently as part of the liquidation.

Deputy Joe Costello: Can Mr. McDonagh give the committee an idea of the rate of interest on those borrowings?

Mr. Brendan McDonagh: The rate of interest on those bonds was set in 2010 when the ten year Irish Government bond rate was 5.2%.

Deputy Joe Costello: It was 5.2%.

Mr. Brendan McDonagh: It is not cumulative. Basically, it means that every year the board has to decide, based on its financial performance, whether it is going to pay it, and for the first two years of operation we did not pay it because in the Irish market NAMA was not performing well as the economy was not performing well. We paid it for the first time in February 2013.

Deputy Joe Costello: In relation to NAMA staff, Mr. McDonagh said it was losing quite a number of staff at the higher echelons.

Mr. Brendan McDonagh: Yes.

Deputy Joe Costello: They would be senior staff, so they would be NAMA's most valuable staff with presumably the most experience. Has NAMA any proposals in place or any criteria in place in respect of a cooling-off period to ensure they do not go immediately across to the other side and become advisers to developers and so on?

Mr. Brendan McDonagh: First of all the staff are employed by the NTMA and are assigned to NAMA. I suppose we still regard them as our staff *de facto*. With the NTMA, a provision

was introduced whereby people would have a three-month period after they resign.

Deputy Joe Costello: Sorry, a three month-----

Mr. Brendan McDonagh: Generally, most people would have a three-month gardening, cooling off period and the people on the executive team would have a six-month cooling off period. I suppose we have to rely on the professionalism of the staff but also the fact that in the legislation there are lifelong confidentiality provisions which apply not only while one is working in NAMA. People often ask why not six months or a year but the reality is that we would have to pay people for that period and the view was that three months was a reasonable period to, effectively, put somebody in cold storage before they go into the market.

Deputy Joe Costello: I presume NAMA has its spies out and about and would know whether previous employees have gone to the dark side, so to speak, according to people who would be very interested in optimising-----

Mr. Brendan McDonagh: I think the issue is down to the people's expertise rather than their specific knowledge and people's professionalism. Clearly, if we became aware of somebody acting untoward in some case that would be a breach of the law and something we would take that very seriously.

Deputy Joe Costello: Can Mr. McDonagh give me an indication as to any number of people who had previously been employed by NAMA who are now employed with developers?

Mr. Brendan McDonagh: I-----

Deputy Joe Costello: Or does Mr. McDonagh wish to come back to me on that issue?

Mr. Brendan McDonagh: Just in terms of the people who left I will give a breakdown. Some 119 people have left NAMA since the start, 16 of whom were on short-term contracts and when their contracts ended they left. Two people have retired. Some 22 people, as is reflective of many other places, decided to leave and go travelling for personal reasons, 65 went to work for alternative employers and 14 moved from NAMA to other businesses in the NTMA. Of the 65 who moved to alternative employers, I cannot recall anybody who has gone to work for a developer.

Deputy Joe Costello: Nevertheless it is people at the senior level, by and large, who are leaving.

Mr. Brendan McDonagh: Yes, people at senior level. First of all, when we recruited them they were senior enough but obviously they became available because of the downturn. We have always had the view that people would never be lifelong in NAMA because NAMA was not going to last forever, but that people would work for three or four years in NAMA and move on. We are very realistic about that because obviously we do have-----

Deputy Joe Costello: Has NAMA still got a concern about people moving on as it did in its annual report?

Mr. Brendan McDonagh: Absolutely. To illustrate my concern, between 2010 and 2013 we lost 60 staff and in 2014 alone we lost 59 staff, which makes up the 119 staff. As many left in one year as had left in the three previous years combined. That is a reflection of the improved-----

Deputy Joe Costello: The trend is increasing.

Mr. Brendan McDonagh: Yes. One has to recognise that people know NAMA will not be around forever but they also recognise that they have got responsibilities in terms of mortgages, children and things of the day and are looking for job security as well. Also, some people who are leaving NAMA are being offered substantial pay increases. As we cannot compete with that, we just have to live with it.

Deputy Joe Costello: Has it affected Mr. McDonagh or NAMA in doing their work?

Mr. Brendan McDonagh: No. I am very fortunate in that there are very good people working for me and the board. They are very committed to doing the right thing to get rid of this burden for the taxpayer. The evidence - in terms of the financial figures - shows that people in the organisation are shouldering the responsibility and that they almost take an obligation on themselves to adopt a very good professional ethic while working for NAMA. The staff have been tremendous and, despite all of the constraints, want to improve the economy. I have been very fortunate in the people I have working for me.

Deputy Joe Costello: I wish to explore one other matter, namely, the strategic development zone, SDZ, which is located in the docklands and encompasses North Lotts and the Grand Canal Basin. This is a new departure. NAMA will be embarking on joint ventures in the context of development. The witnesses have referred to the fact that there are 3.5 million sq. ft. of property and office space in the SDZ. They have provided an outline of how €1.5 million has been channelled into various developments. Hanover Quay is located within the SDZ, but the site on Sir John Rogerson's Quay, to which Deputy Mary Lou McDonald referred, was dealt with prior to the establishment of the zone. Between 2012 and 2014, the site increased in value from €7.5 million - the amount for which it was sold - to €17.75 million. Surely the value of properties located within the SDZ is going to increase dramatically as a result of the fact that they are to be developed by NAMA in a coherent fashion. It is very desirable that there is going to be such development. Are the witnesses in a position to explain how 16 Hanover Quay, located in the SDZ and the total area of which is 6,000 sq. ft., is in the process of being sold by the Dublin Docklands Development Authority for €450,000? An insurance company recently placed a value of €600,000 on this site which is probably worth millions. Does NAMA have any control over matters of this nature? It is taking over from the Dublin Docklands Development Authority and will be carrying out the developments to which I refer in conjunction with Dublin City Council. However, the property on Hanover Quay which is smack bang in the middle of the SDZ and which was not sold in 2012 is now being sold. Is there not something very unusual about this process?

Mr. Frank Daly: The first point to make is that we have not taken over from the Dublin Docklands Development Authority. In so far as working with Dublin City Council is concerned, it is the development agency for the SDZ. Obviously, anything we do within the zone must be done in close co-operation with the council, with which we have a very good working relationship. NAMA has never had anything to do with the site in question. While I would love to be able to answer the Deputy's question-----

Deputy Joe Costello: It is located within the geographical area of the SDZ.

Mr. Frank Daly: It is.

Deputy Joe Costello: I accept that it is not a NAMA site as such.

Mr. Frank Daly: There is a total of 66 hectares of land within the SDZ, of which 22 hectares are available for development. NAMA has an interest in 75% of this. However, the site to which the Deputy refers is not within NAMA's interests.

Deputy Joe Costello: When is it expected that NAMA will take over from the Dublin Docklands Development Authority in the area in question?

Mr. Frank Daly: I do not think we ever intend to take over from the Dublin Docklands Development Authority. The reality is that we now have control over 75% of the developable land in the SDZ and we will work very closely with Dublin City Council in developing it. There are 13 defined sites in the SDZ which come within NAMA's ambit and we have plans to develop all of them at various stages. We have submitted a planning permission application in respect of the Boland's Mill site. We announced yesterday how we intended to proceed in the case of the Project Wave site on the northside of the city adjacent to the infamous Anglo building. The tender for the project was won by Oxley, a company that is listed on the main Singapore Stock Exchange. The developer with Oxley will be the Ballymore Group. This brings us back to a point mentioned about construction companies and developers that survived the crash and have worked well with NAMA. From our point of view, it is good to see one of them involved in a project of this significance in Dublin. Some of the other sites are being developed in co-operation with other entities. In his opening contribution Mr. McDonagh referred to the City Quay Fund and the South Docks Fund in this regard. For the others, we are in the process of applying for planning permission-----

Deputy Joe Costello: I will come to that matter separately. Does Mr. Daly agree that, because of the existence of the SDZ, it is fair to presume the value of the property in the general geographical area will increase in value?

Mr. Frank Daly: That has to do with the SDZ.

Deputy Joe Costello: Mr. McDonagh has indicated that there was an enormous increase in property values between 2012 and 2014. Surely the existence of the SDZ will further enhance the value of property.

Mr. Frank Daly: It also has to do with the way prices are increasing. The SDZ makes the process of delivering much easier.

Deputy Joe Costello: On the social dimension, Mr. Daly has indicated that NAMA is engaged with local developers and that there are other aspects involved. NAMA is obliged to obtain on behalf of the State the best economic return on the impaired assets for which it is responsible. However, in the context of the social dimension, there is an expectation that there will be a social dividend from the work in which it is engaged. The witnesses have indicated that NAMA has contributed substantially to ameliorating the position on housing and homelessness. I accept that I raised this matter with Mr. Daly previously at a different forum, but will he indicate if NAMA is in a position to agree to the use of a local labour clause whereby 20% of workers on a project would be locals? Such a clause obtains in the massive DIT development at Grangegorman. Is NAMA in a position to engage with the companies with which it is involved in joint ventures in order to ensure members of local communities will be able to obtain some of the 10,000 construction and 3,000 to 4,000 ancillary jobs that will eventually be created? There is huge potential in this regard in the area under discussion which straddles the River Liffey and is deprived in many ways.

Mr. Frank Daly: We have engaged on this matter previously with the Deputy. We are not in a position to dictate to companies on the people they should employ, etc. However, we would be supportive of the model used for the DIT project in terms of the Grangegorman employment charter. In so far as we can support the use of similar charters and influence that type of approach, we are open to doing so. In the model in question the Grangegorman Development Agency is responsible for overseeing and monitoring matters. The corresponding body for the docklands is Dublin City Council. I understand the council is examining the possibility of using the Grangegorman employment charter model within the SDZ. While we would be supportive of this, we are very conscious of the social dimension of our work. However, I am ultimately continually obliged to remind people that under the Act our primary remit is commercial in nature. It is to get the best financial return we can for the State which, as I said before, is in itself an indirect social dividend. Other things we can do and which we have been doing involve engaging with Departments and other public bodies on their requirements in any development we are undertaking, be it in the SDZ or elsewhere. Again, we are open to doing this in the SDZ and engaging with the Department of Education and Skills, for example, on schools. We have had some dealings with some cultural bodies in the docklands in relation to the docklands preservation society and its need for a premises. We are positively disposed to this, but we cannot sit down and dictate to a joint venture partner that it must do this or that. At the end of the day we have to be sure we will get the best commercial return.

Deputy Joe Costello: That is certainly most welcome. NAMA is open to engagement with the relevant Department, be it the Department of Education and Skills or the Department of Jobs, Enterprise and Innovation. Is it also open to engagement with the local community in terms of its directly expressed needs?

Mr. Frank Daly: Yes. We have done and now-----

Deputy Joe Costello: Apprenticeships, for example, would be very valuable, as would training and building for the future. This was missed out on within the remit and regime of the Dublin Docklands Development Authority. It would be a shame to miss out on it at this time.

Mr. Frank Daly: That is right. Much of the apprenticeship and training element is encompassed by the Grangegorman model. That is why I like it and why it is a model to which we can subscribe. We will do what we can, but, at the end of the day, oversight, implementation and monitoring which are vital are the responsibility of Dublin City Council.

Deputy Joe Costello: One would not want to limit it to Dublin City Council, as it might not have the same sense of urgency about it. We can look at it in a broader context involving the relevant agencies, the relevant Departments and the local community, if those concerned find it agreeable. I am sure it is desired greatly in the area affected.

Deputy Patrick O'Donovan: I thank the witnesses. One of Mr. McDonagh's earlier points was on social housing. If I am correct, he said 926 social units had been provided. Will he indicate where they are located geographically?

Mr. Brendan McDonagh: That is no problem. I will refer to the 2,000 units that effectively have been confirmed. Obviously, the ones that have been delivered fall outside this number. In Carlow, there are 85; Cavan, 17; Clare, 42; Cork city, 95; Cork county, 124; Donegal, 55; Drogheda, 27; Dublin city, 394; Dún Laoghaire, 130; Fingal, 60; Galway city, 137; Galway county, 73; Kerry, 57; Kildare, 82; Kilkenny, 70; Laois, six; Leitrim, zero; Limerick city, 47; Limerick county, 24; Longford, three; Mayo, 58; Monaghan, 37; Offaly, 52; Sligo; south Dub-

lin, 50; Tipperary, 13; Waterford, 46; Westmeath, 47; Wexford, 94; and Wicklow, seven. That adds up to a total of 1,990 units, from which the 900 will be delivered. We have this information on our website. The latest figures will be published at the end of the year.

Deputy Patrick O'Donovan: What stock level has NAMA behind this, or is that it?

Mr. Brendan McDonagh: That is effectively it. We offered almost 5,500 units, of which only 2,000 were deemed acceptable by the local authorities and the Housing Agency.

Deputy Patrick O'Donovan: What reasons would the local authorities typically have given for not accepting units?

Mr. Brendan McDonagh: Generally, there were two reasons, one of which was that they might not be the types of unit that they wanted. Second, they might have had a view that they already had an over-concentration of social housing in a particular area and did not want to add to it. That was their decision; it was not ours.

Deputy Patrick O'Donovan: Yes. NAMA mentioned the hotel somewhere in south County Dublin. This was in the public arena from last week. Is the hotel to be transferred to Dublin City Council?

Mr. Brendan McDonagh: We have offered it and do not mind who acquires it, be it Dublin City Council or South Dublin County Council. Both local authorities are in discussions with the Department of the Environment, Community and Local Government which is deciding which body will acquire it, if it is to be acquired.

Deputy Patrick O'Donovan: As a matter of interest, has NAMA offered other similar facilities to the authorities?

Mr. Brendan McDonagh: Yes.

Deputy Patrick O'Donovan: Have they accepted them?

Mr. Brendan McDonagh: Yes, but they generally looked for housing units in the form of apartments or houses. The majority of units in our portfolio are two and three-bedroom apartments.

Deputy Patrick O'Donovan: I am really interested in emergency accommodation. Am I right in saying NAMA has previously offered hotels to the Dublin local authorities? Have they been refused?

Mr. Brendan McDonagh: Within our portfolio, there were only two hotels in Dublin that were not operating. One, which is located in Kiltarnan in south County Dublin, was sold by a receiver recently. It was an unfinished hotel. The second was located in Tallaght.

Deputy Patrick O'Donovan: Was it offered previously?

Brendan McDonagh: Yes.

Deputy Patrick O'Donovan: Is this the second time it has been offered?

Mr. Brendan McDonagh: Yes.

Deputy Patrick O'Donovan: Why was it refused the first time?

Mr. Brendan McDonagh: The authority did not believe it was suitable for its requirements. We do not determine-----

Deputy Patrick O'Donovan: Now it is suitable.

Mr. Brendan McDonagh: It is considering it and we have offered it again. In the response, the Minister, Deputy Alan Kelly, asked us to be proactive and add things in. We said-----

Deputy Patrick O'Donovan: I am not having a go at Mr. McDonagh but trying to find out why a local authority facing a housing crisis would refuse accommodation.

Mr. Brendan McDonagh: I do not know. We offered 5,500 units, of which only 2,000 were deemed acceptable.

Deputy Patrick O'Donovan: Of the 5,500, roughly how many were located in the Dublin area?

Mr. Brendan McDonagh: About 1,800.

Deputy Patrick O'Donovan: They refused.

Mr. Brendan McDonagh: Of that number, they stated approximately 630, or one third, were suitable.

Deputy Patrick O'Donovan: Refused.

Mr. Brendan McDonagh: No. One third were accepted, while two thirds were not.

Deputy Patrick O'Donovan: Therefore, 1,200 were refused.

Mr. Brendan McDonagh: For whatever reason, they were not deemed suitable.

Deputy Patrick O'Donovan: Some 1,200 units offered by NAMA were refused by the Dublin local authorities, together with a hotel, which is again under consideration.

Mr. Brendan McDonagh: Yes.

Deputy Patrick O'Donovan: Has a price been agreed between NAMA and-----

Mr. Brendan McDonagh: Yes. Effectively, the hotel is in receivership and the receiver has a number of offers for it. However, he has agreed to a price of just over €4 million.

Deputy Patrick O'Donovan: How does that price compare with the original offer? Is it the same price?

Mr. Brendan McDonagh: The receiver has had it on the market; he has had it on the market probably for the past four to five months. During that period-----

Deputy Patrick O'Donovan: Therefore, it is not years ago that it was offered.

Mr. Brendan McDonagh: No, but it has been there for a long time and they have known it has been there. Since hotels are a difficult asset, the one in question was not suitable. We do not have any decision to make.

Deputy Patrick O'Donovan: As a matter of interest, when did NAMA make the original

approach to the local authorities to determine whether they were interested in buying or acquiring the asset?

Mr. Brendan McDonagh: They have been aware of it for at least two and a half years.

Deputy Patrick O'Donovan: In that period it has appreciated massively in value, as has the rest of the portfolio.

Mr. Brendan McDonagh: I would not say it has-----

Deputy Patrick O'Donovan: For what could it have been bought two and a half years ago?

Mr. Brendan McDonagh: It was up to the receiver at that stage. He has his own duties.

Deputy Patrick O'Donovan: Could I have a ballpark figure?

Mr. Brendan McDonagh: Potentially, about €3 million, I suspect.

Deputy Patrick O'Donovan: It has gone up by €1 million and now the local authorities are interested in it.

Mr. Brendan McDonagh: Yes.

Deputy Patrick O'Donovan: In relation to its portfolio, Mr. McDonagh has said NAMA is involved in planning applications. He has said – he can correct me if I am wrong – that approximately 70% of NAMA's portfolio has been dealt with.

Mr. Brendan McDonagh: What I said was that 70% of the portfolio, by value, that remained was effectively based on consensual arrangements in that the debtors were working with us.

Deputy Patrick O'Donovan: What about the remaining 30%?

Mr. Brendan McDonagh: It is in receivership.

Deputy Patrick O'Donovan: Typically, is it at the lower end of the market?

Mr. Brendan McDonagh: Yes, much of it would be where people got into buying land on the basis of speculation.

Deputy Patrick O'Donovan: The local authorities have revised their local area plans and county development plans, and any changes in zoning would have an impact on values. Has NAMA made submissions to county development plans and local area plans with a view to retaining zoning?

Mr. Brendan McDonagh: Yes, we have an in-house planning team with three senior planners who engage very actively with the local authorities through bilateral discussions on what will happen in areas where we have a material interest. The biggest issue has been trying to find a solution that works for everybody, fully respecting that there is a democratic process at local authority level that must be gone through. Whatever the outcome is, we must live with it, like everybody else.

Deputy Patrick O'Donovan: Has some of the land been de-zoned?

Mr. Brendan McDonagh: Yes.

Deputy Patrick O'Donovan: What impact has it had on the valuations?

Mr. Brendan McDonagh: It has not had a huge impact. When we bought the land on day one, with our valuers we realised some of it would probably never be developed, and that is why some of the discounts on loans we bought from the banks were up to 95%.

Deputy Patrick O'Donovan: Is NAMA in discussions with local authorities on these low-value properties?

Mr. Brendan McDonagh: Yes. Sometimes the land is useful for local authorities and the Department of Education and Skills for schools and other public amenities. We have a reasonable, forthright approach with local authorities and we inform them of the land we have. When local authorities publish their plans, we feed into them. While we are very conscious that our goal is to ensure the value of the asset is maintained as much as possible, if it is de-zoned, we have to live with it.

Deputy Patrick O'Donovan: One of Mr. McDonagh's original points was on mediation, which preoccupied a number of contributors at the start. Who pays for the mediation process?

Mr. Brendan McDonagh: I think both parties pay for it.

Ms Aideen O'Reilly: Both parties jointly pay the cost of the mediator.

Deputy Patrick O'Donovan: How much does it cost?

Ms Aideen O'Reilly: It varies but I have seen figures of between €8,000 and €10,000.

Deputy Patrick O'Donovan: How long does the process last?

Ms Aideen O'Reilly: It varies depending on the complexity. It can take a day or a number of days, it can be run in one phase or in two phases, and the costs will increase with the length of time for which the parties are engaged.

Deputy Patrick O'Donovan: Are the costs shared equally?

Ms Aideen O'Reilly: They are.

Deputy Patrick O'Donovan: I made some points about social housing in Dublin. How proactive are the other four local authorities in Dublin and its hinterland regarding assessing NAMA's asset base to see what else it might have? Mr. McDonagh mentioned a hotel that was offered to them a few years ago, priced at €3 million, and which is probably now worth €4 million. Has NAMA offered them anything else to them in that period of time that has appreciated dramatically in value?

Mr. Brendan McDonagh: Not that I recall. We try to engage constructively with the local authorities and the Housing Agency which is affiliated to the Department of the Environment, Community and Local Government to tell them what we have. Everybody thinks NAMA has a huge pool of assets. We do not. We had approximately 14,000 completed units in our portfolio and offered up approximately 5,500 of them. The market is very strong. There is demand from the private sector as much as anything and we cannot hold them out forever. Whatever we have, we have a very open door policy with local authorities and we ask them if we can help them, or they approach us through the Housing Agency. We have never failed to engage in the right way on that front.

Deputy Patrick O'Donovan: Have they been more proactive in the past number of weeks?

Mr. Brendan McDonagh: Everybody recognises that there is a very serious problem. Over the past number of weeks there has been a much more concentrated focus on the issue.

Deputy Áine Collins: I welcome the witnesses. Mr. McDonagh said NAMA is two years ahead of schedule. What percentage of the original portfolio remains to be sold?

Mr. Brendan McDonagh: Just over 50% remains to be sold.

Deputy Áine Collins: So NAMA is two years ahead of schedule and 50% remains. In 2012, NAMA had 224 staff and it currently has 370. Can Mr. McDonagh explain why there has been such an increase in staff, given that 50% of the portfolio has been sold?

Mr. Brendan McDonagh: There are two issues. First, as I said earlier, we lost a number of senior staff and, given that they are difficult to replace, we have had to replace them with more junior staff. Second, we have decided to get more directly involved in case management in terms of smaller debtors, which I mentioned to Deputy Perry. For the first two years, we concentrated on the top 180 debtors. Then, we decided we also needed to deal with the 500 to 600 debtors below that level and to put more resources into it. The liquidation of IBRC meant our whole infrastructure disappeared, and we had to replace it.

Deputy Áine Collins: What percentage of the 600 small debtors are with receivers?

Mr. Brendan McDonagh: The majority of receivers by number are small debtors. I do not have the figure but will come back to the committee with it.

Deputy Áine Collins: Mr. McDonagh said 59 of the 370 members of his staff left this year, so the staff turnover this year was 16%. How would he say the culture of NAMA is to work in?

Mr. Brendan McDonagh: It is a professional culture in which people are expected to perform and they take their jobs very seriously.

Deputy Áine Collins: With a staff turnover of 16%, does Mr. McDonagh not think there may be an issue with staff being unhappy or that there are issues?

Mr. Brendan McDonagh: The NTMA, which employs the staff, does exit interviews with all the staff. The two predominant reasons they are leaving is for better job security and higher wages.

Deputy Áine Collins: Statistics show that higher wages account for only 40% of staff leaving. It does not seem to measure up with the norms. I accept that NAMA was never going to be established forever and has a ten-year cycle.

Mr. Brendan McDonagh: People have responsibilities such as children and mortgages, and they want job security, which is very understandable.

Deputy Áine Collins: I appreciate that. How would Mr. McDonagh define a “developer”?

Mr. Brendan McDonagh: It is not just my definition, but it is a person who sees a potential in an asset and tries to bring it all the way through from pre-planning to construction, development and sales. That is what a developer does.

Deputy Áine Collins: When Mr. McDonagh talks about the SDZ and the Dublin Dock-

lands area, and says he is not a developer, is NAMA not involved in the planning, development and sale of the asset?

Mr. Brendan McDonagh: While we are involved in it, we will not be building the asset but providing the funding.

Deputy Áine Collins: Who is building the asset?

Mr. Brendan McDonagh: Whichever party acquires the site, whether a joint venture partner or the receiver.

Deputy Áine Collins: Could Mr. McDonagh explain the process? NAMA owns 70% of the land available for development and is in a joint venture. While I appreciate that NAMA is not physically building it, it can take on contractors and pay for them out of the process. Is NAMA going into partnership with developers?

Mr. Brendan McDonagh: Yesterday we announced a joint venture whereby we are giving Oxley Holdings Limited a long-term leasehold and it will invest and engage in a construction contract. We will receive an income. A receiver is involved with Bolands Mills to whom we will advance funding for the planning and potentially for the construction, for which he will engage a construction company. We will not be involved in the bricks and mortar. We are more interested in ensuring it will happen. This is Government policy and what it wants us to do. We are trying to ensure it happens in a coherent way.

Deputy Áine Collins: I accept this, but many developers are not involved in bricks and mortar or building actual houses because they subcontract this. I do not have an issue with whether NAMA is doing it or not. I have an issue with the fact Mr. McDonagh states NAMA is not a developer, but NAMA appointed the receiver to Bolands Mills and this receiver will build. This is absolutely fine and it makes proper sense, but I am concerned as to why Mr. McDonagh is making such a strong statement about not being a developer when the practices in which NAMA is engaged is a developer process to make the most from a particular asset and to sweat it to get it out the other end.

Mr. Brendan McDonagh: We are more involved in asset management and ensuring the value of the asset is maximised. We are not engaged in building on a speculative basis and stating people will come when it is built. We are involved in that.

Deputy Áine Collins: That is not what all developers do.

Mr. Brendan McDonagh: I totally agree with the Deputy.

Deputy Áine Collins: With regard to the development of residential houses, there was huge interest in a site being sold by Savills in Bishopstown, Cork, but I understand it has been taken off the market and NAMA itself will build there. Is Mr. McDonagh aware of this?

Mr. Brendan McDonagh: I am not aware of this individual development but I can check it out and come back to the Deputy.

Deputy Áine Collins: I would be grateful. I certainly do not want to see NAMA being the building force behind much of the residential property. We need competition and we need to have developers back in the marketplace.

Mr. Brendan McDonagh: NAMA will never do it itself. I do not know about this particu-

lar case, but in some cases the improved market conditions might mean it would make sense for NAMA to fund the development but we would not do the development. I will come back to the Deputy with regard to this case.

Deputy Áine Collins: I am a bit concerned about it because we need competition in the marketplace. NAMA owns many of the assets which are suitable for building and which are located where housing is required. I am very concerned about NAMA stating it is not a developer.

Mr. Brendan McDonagh: The Government wants us to ensure 4,500 units are delivered by 2016.

Mr. Brendan McDonagh: I understand that point.

Mr. Brendan McDonagh: NAMA is not wedded to sticking with one strategy all of the time. Recently, with a joint venture partner, we were going to buy a property in Dublin from a receiver. However, the receiver received a higher offer and NAMA sold it. If the right price comes along we will sell.

Deputy Áine Collins: We need 4,500 houses as quickly as possible, so if we can get the sites to developers and let them build as quickly as possible-----

Mr. Brendan McDonagh: My personal view is that everything in NAMA is for sale every day at the right price. If the price is right we will sell.

Deputy Áine Collins: Will Mr. McDonagh come back to me with regard to the site in Bishopstown because there is huge interest in the market?

Mr. Brendan McDonagh: I will.

Deputy Áine Collins: There is a huge shortage of housing in Cork city as well as in Dublin. Sometimes the rest of the world outside of Dublin gets forgotten.

Mr. Brendan McDonagh: We do not forget about it.

Deputy Áine Collins: I am glad to hear it.

Mr. Brendan McDonagh: I am also from the country.

Chairman: How many accountancy firms and law firms does NAMA use?

Mr. Brendan McDonagh: The accountancy firms we use are generally those in the top 20.

Chairman: How many firms are used? Does NAMA use ten different firms?

Mr. Brendan McDonagh: We would easily use ten different firms for different aspects.

Chairman: Does NAMA use 20 different firms? I want to get an idea of the range.

Mr. Frank Daly: A long list is published every year.

Chairman: Well then you should know the number, if you publish it.

Mr. Brendan McDonagh: Generally we use between ten and 20 firms for different aspects of business.

Chairman: What about legal firms?

Mr. Brendan McDonagh: All of the legal firms we use are published on the website.

Ms Aileen O'Reilly: We use 40 or 50 firms between here and the UK.

Chairman: With regard to the conversation earlier with Deputies Collins and O'Donovan on building homes, my understanding is NAMA will use builders to achieve this. I presume they are selected through a procurement process or will NAMA use the builders on site?

Mr. Brendan McDonagh: Generally it is the builders who have the land already.

Chairman: Do they suggest to NAMA what should be built? Do they suggest two, three or four bedroomed houses?

Mr. Brendan McDonagh: It is subject to the planning permission given by the local authority.

Chairman: No it is not. It is subject to what one wants to put on site and then one makes a planning application. What is the analysis which tells NAMA what to put on the site before it applies for planning permission?

Mr. Brendan McDonagh: With regard to most of the 4,500 units, discussions have taken place between the debtors, our in-house planning team and local authorities on what type of planning would be achieved. A planning application is made and if it is granted this is what will be built on the site.

Chairman: What analysis of the market is made?

Mr. Brendan McDonagh: A standard analysis.

Chairman: Is Mr. McDonagh happy with the analysis of a particular area which dictates the requirement, such as 100 two-bedroomed houses? Who carries out this analysis? Is it NAMA or the developer?

Mr. Brendan McDonagh: The developer carries it out and shares the information with our in-house team which reviews it based on our discussions with various people on what we believe that demand is. If it makes commercial sense we will fund it.

Chairman: Is it discussed with builders who are not part of the development, just to get an assessment? Is this what the in-house analysis is all about?

Mr. Brendan McDonagh: Our in-house team discusses it with others operating in the market, such as other planners and agents. We take market soundings.

Chairman: Is NAMA building, or does it propose to build, 200 three-bedroomed houses within 30 miles of Dublin? Is this a proposal with any developer?

Mr. Brendan McDonagh: I am not aware of any individual developer but we are examining funding housing mainly in Kildare, Wicklow, Meath and Louth in addition to Dublin.

Chairman: Who dictates how many houses are built? Are they all built or is a showhouse built to determine interest?

Mr. Brendan McDonagh: We do it on a phased basis to test the market.

Chairman: Is this down to the developer?

Mr. Brendan McDonagh: It will be in discussion with us because the developer must borrow the money from us. We do not want to advance too much money until the market is proven. We will probably do it on a phased basis, perhaps ten or 20 houses.

Chairman: The market is tested and the usual construction process begins whereby NAMA gets a list of interest in the houses.

Mr. Brendan McDonagh: Yes, and if there is more demand we will fund another phase.

Chairman: How much does NAMA spend on legal costs? Is it okay to ask about the Dellway case? How much does such a case cost?

Mr. Brendan McDonagh: As we stated previously to the committee, that case probably cost us approximately €2 million.

Chairman: In that case. Would there be any other significant cases, without naming them, that would have cost that type of amount?

Mr. Brendan McDonagh: No, but litigation is not always initiated by NAMA. It depends how far the whole process goes. People appeal to the Supreme Court and things like that, which adds to the cost.

Chairman: That is a case you did not win.

Mr. Brendan McDonagh: Which one?

Chairman: Did you win the case?

Mr. Brendan McDonagh: Yes.

Chairman: But it cost €2 million. What about the overall number of cases in a year, in terms of the cost of legal fees?

Mr. Brendan McDonagh: In terms of legal fees that we incurred directly, in 2013 they would have been about €3 million. We would have incurred other legal costs associated with debtor connections.

Chairman: What are the administration costs?

Mr. Brendan McDonagh: Our administration costs, all in, were about €116 million last year.

Chairman: €116 million.

Mr. Brendan McDonagh: That covers money we pay the banks, the costs of all our staff and IT and other costs.

Chairman: How is the board structured?

Mr. Brendan McDonagh: The board of NAMA?

Chairman: Yes.

Mr. Frank Daly: There are nine people approved under the Act. The Act allows for nine people to be on the board. The present complement is seven; there are two vacancies.

Chairman: There are two vacancies on that board. They are appointed by the Minister for Finance. What is the cost of the board? What does each member receive in expenses?

Mr. Frank Daly: The cost of the board in 2013 was €599,000. That includes board and committee fees.

Chairman: What would that be for?

Mr. Frank Daly: It would be for fees paid to board members and expenses incurred in attending meetings, which are very little.

Chairman: It is not very little. Is it the number of meetings?

Mr. Frank Daly: No, the number of meetings is certainly not very little. There are numerous meetings.

Chairman: Would the nine people travel from different parts of the country?

Mr. Frank Daly: No, there is one person from the UK.

Chairman: Is that person paid to travel over and back?

Mr. Frank Daly: Yes.

Chairman: That is part of the €599,000.

Mr. Frank Daly: Yes.

Chairman: Board costs-----

Mr. Frank Daly: I am not sure whether that is included in the fees. It is in the board expenses.

Chairman: The administration cost is €116 million.

Mr. Frank Daly: No, it is included in the total figure I gave the Chairman.

Chairman: In the €599,000?

Mr. Frank Daly: The board fees are €409,000 and the board expenses are €162,000. The total comes to €571,000 for 2014.

Chairman: Is that because of the particular expertise of the individual in the UK?

Mr. Frank Daly: Yes, he has a skill set that is suitable for the board. The trigger for his appointment was that when the process of selling off IBRC commenced and NAMA was the backstop, the intention was if the loans were not sold we would take them on. For a time it looked like we would be actually doing that. At the time we had a vacancy on the board. The IBRC board had been dissolved and it seemed a good match or mix to have somebody from the former IBRC board who had been on it for a relatively short time. He was only there for two years.

Chairman: As you are recruiting staff - we heard the numbers earlier in terms of the 370

staff - what is the focus regarding their skill sets, now that you are developers?

Mr. Frank Daly: Sorry?

Chairman: Now that you are involved in the development and building of houses and the analysis of that market, what is the skill set required? Are you recruiting a particular skill set, relative to your activity?

Mr. Brendan McDonagh: The skill set in NAMA is varied. There are corporate finance people, accountants, lawyers, quantity surveyors, planning experts and engineers. The people who work on our asset management team and our residential team primarily have property backgrounds.

Chairman: They have property backgrounds.

Mr. Brendan McDonagh: Yes, but it is a multidisciplinary team. There are also some financial people attached to it as well.

Chairman: The last time you were here we talked about information that may or may not have gotten into the market from employees of NAMA. It was said at the time that the allegations were unfounded and with regard to the so-called full file, NAMA has very little information in regard to individuals. Thereafter, was some court action taken against someone or legal action taken against an individual?

Mr. Brendan McDonagh: Yes, that is in the domain since 2012. That is due before the courts in March.

Chairman: Therefore, would you still stand over those statements?

Mr. Brendan McDonagh: No, at the time we were very upfront about the fact we had reported two former employees to the Garda. It brought one case to the DPP which will be before the courts in March.

Chairman: Yes, but I am making the point that there was information held by NAMA regarding a particular individual. It appeared afterwards, as I read it, in affidavits prodded by you to the courts. Are there two court cases pending?

Mr. Brendan McDonagh: No, there are two matters referred to the Garda bureau of fraud investigation and one of those cases will come before the courts in March. We cannot comment on that.

Chairman: I do not want you to. How do you feel now about the confidentiality matter?

Mr. Brendan McDonagh: Confidentiality is taken very seriously in NAMA. It is a statutory obligation under the NAMA Act. It is a lifelong obligation and where somebody-----

Chairman: Is it working for you?

Mr. Brendan McDonagh: We believe it is working for us. We take it very seriously and where somebody is found to be in breach of it and we become aware of it, we report it to the Garda.

Chairman: Have you reported any matters recently?

Mr. Brendan McDonagh: No. As I said, there are two individuals NAMA reported to the Garda when we became aware of matters.

Deputy Mary Lou McDonald: Can I give way for two minutes for Deputy Collins to ask a supplementary question?

Deputy Áine Collins: Mr. McDonagh said earlier that 119 staff had left, of which 65 had gone to other employment, none of whom were developers. How many of them have gone to estate agents? What about people involved with NAMA in regard to the sale of property?

Mr. Brendan McDonagh: I would say of that 65, probably about ten people left to go to those type of businesses.

Deputy Áine Collins: Were those type of businesses connected with NAMA working with those people in regard to managing out portfolios?

Mr. Brendan McDonagh: While they worked in NAMA, they joined businesses who would be bidding on assets.

Deputy Áine Collins: Had they been involved in the bid process with those people before they left NAMA? When they were in NAMA were they members of the team managing out the portfolios these people bought?

Mr. Brendan McDonagh: Yes. The majority of people in NAMA are dealing with portfolios.

Deputy Áine Collins: I am just concerned about the fact that people left and went to work with people with whom they had been working and the confidentiality around that.

Mr. Brendan McDonagh: I think we have to respect that people are professional and there is no evidence that people would not act in a professional way. As I said, the obligation is a lifelong obligation, in terms of the confidentiality of information. To be fair to those people, we have no evidence that there is ever any question mark over their propriety.

Deputy Áine Collins: There are ten people. I thank Mr. McDonagh.

Deputy Mary Lou McDonald: Can I return to one of the issues raised earlier and that the Chairman pursued with Mr. McDonagh and Mr. Daly in respect of complaints that might be made about NAMA and the fact that both men investigate those complaints? Mr. McDonagh indicated that he has undertaken such investigations and inquiries. Can Mr. McDonagh give us a sense of the scale of that? How many complaints might have been investigated?

Mr. Brendan McDonagh: Over the lifetime of NAMA I have probably received 15 to 20 complaints in the last five years.

Deputy Mary Lou McDonald: Does Mr. Daly agree that is correct?

Mr. Frank Daly: That would be correct. Some of them come to both of us, while some of them might come to me and some might come to Mr. McDonagh.

Deputy Mary Lou McDonald: Do the witnesses investigate them jointly regardless of who receives them?

Mr. Brendan McDonagh: The chairman and I have a very close working relationship and

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there is no holding anything back. If something comes in, it affects NAMA. It does not affect one of us as an individual, it affects us corporately so we talk about it.

Deputy Mary Lou McDonald: Presumably, the witnesses would inform the board of the receipt of such a complaint.

Mr. Brendan McDonagh: If it was a very-----

Mr. Frank Daly: We would not inform the board of every complaint. On the scale of things some complaints can be quite minor and resolved fairly quickly. However, if a serious issue was brought to either my or Mr. McDonagh's attention, we would certainly mention it at the board.

Deputy Mary Lou McDonald: Who would adjudicate what warrants a serious complaint and what warrants a triviality?

Mr. Frank Daly: They are never trivial and we would never regard them as such.

Deputy Mary Lou McDonald: A minor matter.

Mr. Frank Daly: It would probably be in conversation between ourselves, although ultimately I am the chairman.

Deputy Mary Lou McDonald: It would be at Mr. Daly's discretion or judgment-----

Mr. Frank Daly: Yes, to bring it to the board.

Deputy Mary Lou McDonald: -----to evaluate the level of gravity of the complaint.

Mr. Frank Daly: We deal with these together-----

Deputy Mary Lou McDonald: I am trying to get a sense of the procedure.

Mr. Frank Daly: -----and we would decide together whether a particular complaint needed to be brought to the board, either just for information or whether we wanted the board to be involved in it. I am not sure that we have felt it necessary to get a board decision on any complaint to date, but certainly there are complaints or certain issues of which we would always ensure the full board was aware.

Deputy Mary Lou McDonald: To get this straight, let us say I wrote to Mr. Daly with a complaint and, clearly, if I have taken the trouble to write to him I regard the matter as serious, whatever Mr. Daly's judgment of it is. The witnesses would have a conversation with each other and make an evaluation of it to establish the seriousness of it. Presumably, the witnesses would always investigate the complaint-----

Mr. Frank Daly: We would always establish the facts behind it.

Deputy Mary Lou McDonald: That would be by way of speaking to colleagues or the relevant personnel.

Mr. Brendan McDonagh: I would always assign a senior member of staff in NAMA. His job is to get the facts on the situation and refer back to me impartially. He is not involved in the business, so he goes in and establishes the facts regarding what the complainant said.

Deputy Mary Lou McDonald: Is that a designated position within NAMA?

Mr. Brendan McDonagh: Yes.

Deputy Mary Lou McDonald: What is that position called? Is it the complaints officer?

Mr. Brendan McDonagh: No, it is our head of relationship management.

Deputy Mary Lou McDonald: That is the person who does the donkey work of establishing the facts.

Mr. Brendan McDonagh: Yes.

Deputy Mary Lou McDonald: Does the relationship manager refer back to both of the witnesses?

Mr. Brendan McDonagh: Yes.

Deputy Mary Lou McDonald: What happens then?

Mr. Frank Daly: I should point out that we would occasionally get anonymous complaints. The Deputy mentioned if she wrote to me. I do not know whether she was talking about writing in her position as a Deputy or just as a citizen, but it does not matter. We will investigate even anonymous complaints.

Deputy Mary Lou McDonald: When complaints are received there is an initial evaluation and the relationship manager establishes the facts. He reports back to the witnesses.

Mr. Brendan McDonagh: If somebody writes to us, we would always write back to them.

Deputy Mary Lou McDonald: When the witnesses receive the results of the investigation, they obviously have a conversation again. They would establish whether matters have been clarified or not and they would always write back to the complainant, unless they are anonymous.

Mr. Frank Daly: We sometimes get anonymous complaints that are repeated, with the complainant saying we did not reply to the first complaint.

Deputy Mary Lou McDonald: Yes, we get those too. Then the witnesses make a decision as to whether it would merit being brought to the attention of the board.

Mr. Frank Daly: Yes.

Deputy Mary Lou McDonald: How many complaints have been upheld? Mr. McDonagh mentioned 15 or 20 complaints. Of that number, how many were given to the relationship manager, who investigated and substantiated them?

Mr. Brendan McDonagh: All the complaints would be given to him to get the facts and refer back to us. There has never been a situation to date where a complaint was fully upheld, because there are usually two sides to every story. Our *modus operandi* is to find a solution and in all the situations I have encountered in the 15 or so we received, we have generally been able to establish the facts and report back. If somebody takes the trouble to write to us, we always have the courtesy to write back to them and we give them the facts as we established them. Sometimes people accept that and sometimes they do not. We must ensure we protect the organisation. That is our job.

Deputy Mary Lou McDonald: In the event that the complainant does not accept the finding, what recourse do they have?

Mr. Brendan McDonagh: On some issues people have said that they might wish to refer the matter elsewhere, and we have told them that is their right.

Deputy Mary Lou McDonald: Where might they refer the complaint?

Mr. Brendan McDonagh: If they are suggesting that something was illegal, the Garda is the right place to which to refer it. Some people go to their public representatives to tell them they have dealt with NAMA and were not satisfied with the response, so sometimes public representatives would try to engage in the process. They are the types of things that happen.

Chairman: Is that breaking the law?

Mr. Brendan McDonagh: There is section 221, which is a lobbying provision. However, if somebody feels they have a grievance, we try to take a pragmatic view of it.

Deputy Mary Lou McDonald: The witness therefore would not regard an approach by a public representative on the basis of a complaint as lobbying *per se* for the purposes of the Act.

Mr. Brendan McDonagh: No. What we are trying to do is to be fair to everybody in the situation and establish the facts. Sometimes both parties might have a contrary view of a situation and on the basis of the facts available we must look at what is the best way to try to resolve the issue. We always work to try and resolve the issue.

Mr. Frank Daly: We have engaged with this committee and others on the issue of lobbying. As a public representative the Deputy will know that we have put in place a mechanism through a dedicated e-mail service whereby public representatives can draw matters to our attention. However, it must be said that we do not see public representatives generally stepping over the line into lobbying. Ours is a State body so we believe there must be an engagement with public representatives. If a public representative wishes to bring an issue to our attention, that is one thing but if a public representative seeks to influence us in coming to a particular decision, then clearly they will fall into lobbying.

Deputy Mary Lou McDonald: Of course. The worrying matter is that from the perspective of an individual who might have a complaint in respect of NAMA, there is no independent stream or system to arbitrate that. I accept that the witnesses receive the complaints, examine them and have the relationship manager investigate them. I do not gainsay that. However, is there not a disparity between the person making the complaint and NAMA, through the witnesses, receiving it, investigating it themselves and writing back to the person, with the only other recourse for the person being to go to the Garda or to a public representative who, by definition, is limited in what they can do?

Mr. Brendan McDonagh: They can also go to the courts.

Deputy Mary Lou McDonald: Do the witnesses think that is a good way to do their business? NAMA is a State body and Mr. McDonagh said his job is to protect the organisation, the taxpayer and the integrity of the organisation. However, is it not problematic that there is no independent form of arbitration for those who might have a complaint with NAMA, short of An Garda Síochána or recourse to lawyers? I believe there is a problem with that. We have had this conversation previously. I know it does not accept this analysis but there is a sense that NAMA

is almost in splendid isolation with a vast portfolio, with the cover of commercial sensitivity and with a commercial mandate and all that entails. If one is outside that, in particular if one has had reason to have had dealings with NAMA and if one has a complaint, are the scales not weighed very heavily against the individual?

Mr. Brendan McDonagh: I do not accept that at all.

Mr. Frank Daly: We discussed at length before, this issue of NAMA not being transparent and accountable. We will probably never agree on it. We have a very strong view to the contrary about the accountability we have here and elsewhere, not least the oversight we have by the Comptroller and Auditor General. In relation to the complaints, we are saying here - I suppose we would value our own integrity as much as anything else - that complaints which come to NAMA are investigated thoroughly and objectively and are responded to.

I do not know what the Deputy has in mind as a sort of appeal mechanism but one is really then talking about getting into the realm of having another body that effectively would be directing NAMA on what to do in particular cases. I am not sure how that would work in a very practical sense.

Deputy Mary Lou McDonald: What else does the NAMA relationship manager do? I presume it is a male.

Mr. Brendan McDonagh: It is a male.

Deputy Mary Lou McDonald: I presume the NAMA relationship manager has more tasks than investigating complaints.

Mr. Brendan McDonagh: The job is to do with the whole communications aspect of NAMA, dealing with the whole issue of parliamentary questions and Oireachtas Members' inquiries. There are lots of activities.

Deputy Mary Lou McDonald: Is it like a customer service thing?

Mr. Brendan McDonagh: Yes. It is effectively to try to be an information point for people when they are looking for information about NAMA. We revamped our website recently to try to put more information on it and to make it easier to access it. There is a huge amount of information on our website. Also, if someone telephones, he or she can talk to him and he will say he will look into the matter and come back to him or her. We log all the calls. Everybody who contacts NAMA is always reverted to.

Deputy Mary Lou McDonald: The Ombudsman does not have oversight responsibility for NAMA.

Mr. Frank Daly: No.

Deputy Mary Lou McDonald: That would be a very credible channel for complaints.

Mr. Frank Daly: That is a policy decision.

Deputy Mary Lou McDonald: It is a policy issue. In any event, we take it as read, because it has been said here clearly that if complaints, issues or concerns come to any of us - some members have indicated that they have some worries about NAMA having an open door policy and that we can bring to it-----

Mr. Frank Daly: There is a very robust mechanism there.

Deputy Mary Lou McDonald: I am sure there is but I would suggest a more robust mechanism. However, that is probably a matter for Government.

Deputy Costello raised the issue of the docklands, as perhaps did others. This comes down to NAMA as an entity, the scale of it and obviously the scale of the plans conceived for the docklands and the reality that, in its former incarnation, the development of that part of town fell short of many of the social expectations of the communities which live there. There are very grand plans to develop commercial units and increase residential space but NAMA will accept that these are very long-established and bedded-in residential communities, some of which have experienced very severe inter-generational poverty. Parts of these areas have very high levels of long-term unemployment. Many of the young people in the areas, who are full of potential and so on, have not been afforded access to all of the educational opportunities which would assist them.

How conscious is NAMA of this idea of a social dividend in respect of this development? What influence will NAMA have on that? What kind of access will local communities and their representatives have to NAMA in the course of this development? Speaking quite parochially, as one of the representatives of those communities, it would be an absolute disaster if one had shiny commercial development, including new residential development, on the one hand and the established communities left behind again on the other, because this has been the experience of these communities. I would like an assurance from NAMA that there will be considerable access. I would like to extend an offer to NAMA to meet local people. I know there has been some contact but it should continue. Those at the highest level in NAMA should make themselves available to listen and respond to the needs of the communities.

Mr. Frank Daly: I can respond quickly because we have discussed it with Deputy Costello. We are very conscious of the social dividend element of what we do everywhere, not least in the docklands. We have no wish to create a kind of sterile environment there where every place closes at 5 p.m. and there is no life after that.

In regard to access for local communities to talk to us, we are absolutely committed to that and we have already done it. Last week I met about 30 people from the communities around the North Wall and we have engaged on the same level in relation to the south side.

On disadvantage in terms of employment, education or whatever, again, as I said earlier, we are very open to listening to any requirements from the Department of Education and Skills or anybody else in regard to facilities they need there, or to local cultural bodies. We have engaged with the Docklands Preservation Society in relation to its requirements.

On the employment piece, we talked earlier about the Grangegorman employment charter, which seems to be a good model for the type of approach that should be taken and which seeks to encourage employment of local people in the first instance. I made the important point that we are not the development agency for the docklands or for the SDZ and we are not the successor to the DDDA. Dublin City Council is the development agency.

If one takes the Grangegorman model, where the Grangegorman Development Authority oversees and monitors the employment charter in Grangegorman, Dublin City Council would have the same role here. From our point of view in NAMA, while we cannot force anybody to employ local people or anything like that, one can be sure we will absolutely encourage it in

whatever dealings we have. We have no problem meeting people.

Deputy Mary Lou McDonald: That is excellent. I am familiar with the Grangegorman model and it is not a perfect one by any stretch. Mr. Daly will be aware there are new EU procurement rules. There is consultation under way at the moment which will allow enormous scope to create social clauses and local employment clauses that actually work and actually deliver. I welcome the fact NAMA has an open ear to that.

Mr. Frank Daly: The Grangegorman model is not a bad one but if there is a better one-----

Deputy Mary Lou McDonald: Let me assure Mr. Daly that it could be vastly improved on.

There is an arts event in Sheriff Street on, I think, 27 January and I am sure the local people would be more than delighted to see people from NAMA come along, but I will write to NAMA to inform it of the details. It will be a theatrical piece that sets out the history of parts of inner city Dublin which are very close to Sheriff Street. I hope people from NAMA will be there.

Mr. Frank Daly: As long as they do not expect me to sing.

Deputy Mary Lou McDonald: They will specifically require that Mr. Daly does not sing.

Chairman: What is the updated position on the glass bottle site?

Mr. Brendan McDonagh: At present, that site is under receivership with an adjoining site. Dublin City Council is looking at the options around that and of potentially a revised master planning scheme around that whole site. That is in the remit of Dublin City Council at present, so the discussions are at a very early stage.

Chairman: I will not delay Mr. McDonagh any further as we have been here since 10.30 a.m. NAMA, the National Asset Management Agency, seeks charges on properties and unencumbered assets of borrowers. When it comes to credit rankings, does the agency ever seek to be the first port of call rather than Revenue or any other agency?

Mr. Brendan McDonagh: In situations where there is potential enforcement by other financial institutions we try to get there first. That is what they would try to do too. There is nothing unusual in that. In terms of priority creditors, we recognise Revenue is the first and that has to be taken into account.

Chairman: Did NAMA ever seek to change that?

Mr. Brendan McDonagh: No, we cannot change the law.

Chairman: Did the agency ask the Minister to change it?

Mr. Frank Daly: No. I could not go back on my old position.

Chairman: I just wanted to see if Mr. Frank Daly changed his spots in any way. Old loyalties die hard.

In an article on the Dellway v. NAMA court case, a barrister made the point that the client of NAMA is entitled to all of the information relevant to all files including valuations and so forth. Does the agency share all that information with all its clients?

Ms Aileen O'Reilly: I might read that article and come back to the committee on it.

Chairman: It is a simple enough question.

Ms Aideen O'Reilly: I will come back on specifically what the Chairman referred to because it does not fit with the judgment as I understand it. The core of the Dellway decision was that where a public body was considering a decision which could have an adverse effect on the interests of a person - in this case the plaintiff, Dellway - that person was entitled to make representations prior to the decision and was also entitled to have reasons given to them for that decision.

Chairman: That is the reasons for NAMA's decision?

Ms Aideen O'Reilly: Yes.

Chairman: Are the results of this judgment now applied in every case?

Mr. Brendan McDonagh: Absolutely. Effectively, it is down to public bodies and fair procedures. The principles of the Dellway judgment have been applied all the way through NAMA's business. Sometimes in a judgment, judges will indicate they will extend it a bit further. We take account of that judgment as we go forward.

Chairman: Is the typical cost of mediation €8,000?

Ms Aideen O'Reilly: Yes.

Chairman: Is that for the person conducting the process?

Ms Aideen O'Reilly: Yes, that would be for the mediator.

Chairman: Does it include the costs of each side?

Mr. Brendan McDonagh: No, each party pays for itself.

Chairman: Each party pays for its own representation while they share the cost of the mediator. Is that correct?

Ms Aideen O'Reilly: Yes, that is correct.

Chairman: I would love to believe the mediation process is as was described by NAMA earlier. It might be in many cases. However, in some of the cases we have heard, there are serious doubts about it being a fair and balanced process. It does cost the citizen an enormous amount of money to pursue any action. There are not many who could have gone to battle with the agency and pay €2 million for a court case. That is relative all the way down the line.

The agency's relationship manager is present and does a fine job. However, the process described earlier is not the one Deputy McDonald and I am looking for. We are looking for more engagement from senior levels in NAMA with specific cases. There are cases that NAMA does not get right all the time. Mr. Brendan McDonagh said he has a job to protect the organisation. I respect that too. Sometimes, protecting the organisation means listening to the odd voice that says there is something wrong with the agency's system or, as I heard recently about some of the agents that act on NAMA's behalf, that they approach the client in an aggressive way. I would like to feel that in protecting NAMA Mr. Brendan McDonagh would see these complaints as way of understanding the plight of the citizen - sometimes a family - not a big developer with much property, money or know-how that the agency usually deals with. It would be good to listen not just to those who say Mr. Brendan McDonagh is a great fellow but to those

who might say he is not so great and has brought much sadness into their lives. That is a point on which he will have to ponder. That is what the members are talking about. It is respecting what Mr. Brendan McDonagh does but also the rights of the citizen and what was said in the Dellway case. One will find any organisation that has a complaints department and stands over the thorough examination of every single complaint is successful and understood. I am not sure NAMA's structure is correct in that regard. Will Mr. Brendan McDonagh look at it?

It was said earlier to Deputy Perry that if it is a reasonable proposal, NAMA will do a deal with a client as everyone has to move on. That is a fact. The meditation process that I learned about yesterday does not facilitate that very well. Court is not an option for some people. It saddens me to be part of a Parliament that created legislation that has brought about the type of grief that I had explained to me yesterday. How as parliamentarians and legislators can we correct that? Maybe what people are saying is that they need an action from all political parties that will review legislation to put the citizen first and understand humanity and compassion. It is Christmas. I reiterate the appeal I made privately to Mr. Brendan McDonagh earlier. It is nothing personal to those present but I find it deeply upsetting.

I have several other questions which I cannot put now as we have gone through much. Will members agree to leave the financial statements of NAMA for 2013 open?

Deputy Áine Collins: Yes.

Chairman: We have raised several queries which I believe we will want to review in the new year. Deputy Áine Collins has proposed we hear from those that have been through the NAMA process.

In reviewing the year, I thank the witnesses for attending today and also all the other witnesses who have attended - Accounting Officers, officials, and so on. It can be a very robust process. Members try to get it right on behalf of the taxpayers and I hope they see that is the way we are conducting ourselves and doing our job. As legislators and members of this committee, we must reflect on the legislation that is impacting in such a negative way, at times, on our citizens.

I wish everyone a happy Christmas. I am conscious in saying this that a member of our staff has suffered a bereavement recently and that we have in the Visitors Gallery Mrs. De Vere Hunt and her daughter. I wish them well on what is a very sad anniversary for them and a very important day in their lives to reflect on things and I express to them the condolences of this committee. Hopefully people will see sense.

The committee adjourned at 1.40 p.m. until 10 a.m. on Thursday, 22 January 2015.