

DÁIL ÉIREANN

AN COMHCHOISTE UM AIRGEADAS, CAITEACHAS POIBLÍ AGUS ATHCHÓIRIÚ, AGUS AN TAOISEACH

JOINT COMMITTEE ON FINANCE, PUBLIC EXPENDITURE AND REFORM, AND TAOISEACH

Déardaoin, 17 Bealtaine 2018

Thursday, 17 May 2018

Tháinig an Comhchoiste le chéile ag 10 a.m.

The Joint Committee met at 10 a.m.

Comhaltaí a bhí i láthair / Members present:

| Teachtaí Dála / Deputies | Seanadóirí / Senators |
|--------------------------|-----------------------|
| John Deasy, | Paddy Burke, |
| Pearse Doherty, | Rose Conway-Walsh, |
| Michael McGrath. | Kieran O'Donnell. |

I láthair / In attendance: Deputy Marc MacSharry.

Teachta / Deputy John McGuinness sa Chathaoir / in the Chair.

Business of Joint Committee

Chairman: We are now in public session. We will go into private session to deal with a number of matters.

The committee went into private session at 10.05 a.m. and resumed in public session at 10.38 a.m.

Resolution of Non-Performing Loans: Discussion (Resumed)

Chairman: We are now back in public session. I welcome Dr. Martha O'Hagan-Luff and Mr. Brendan Burgess to the meeting. We will be joined later by Mr. David Hall. We had intended to have three separate sessions for each submission but maybe it can be done in one session. We will leave an opening statement to be made by each witness.

I wish to advise the witnesses that by virtue of section 17(2)(l) of the Defamation Act 2009, witnesses are protected by absolute privilege in respect of their evidence to the committee. However, if they are directed by the committee to cease giving evidence on a particular matter and they continue to so do, they are entitled thereafter only to a qualified privilege in respect of their evidence. They are directed that only evidence connected with the subject matter of these proceedings is to be given and they are asked to respect the parliamentary practice to the effect that, where possible, they should not criticise or make charges against any person, persons or entity by name or in such a way as to make him, her or it identifiable.

Members are reminded of the long-standing parliamentary practice to the effect that they should not comment on, criticise or make charges against a person outside the House or an official either by name or in such a way as to make him or her identifiable. We will begin our meeting with Dr. O'Hagan-Luff's opening statement, before hearing from Mr. Burgess.

Dr. Martha O'Hagan-Luff: I thank the Chairman and members for the invitation to present to the committee this morning. Specifically, I was asked to consider the potential benefits and risks of selling non-performing loans to private investment funds. As we know, many years after the financial crisis Irish banks continue to have very high ratios of non-performing loans to assets. Although the ratio has fallen from a high of 32% to just above 11%, it is still very high in comparison to the European average of 4.6%, and is one of the highest in Europe. This remains a source of vulnerability facing the domestic banking system. For the banks holding non-performing loans, this reduces their profitability, increases their funding costs and ties up bank capital, which has a negative impact on the supply of new credit and borrowing rates, and ultimately creates a drag on economic growth.

Many measures have been implemented in Ireland to reduce these ratios, one of which is the sale of non-performing loans to investment funds. The volume of distressed loan sales in Europe remains very low compared to the US market, but has begun to increase in recent years. A private investment fund can only raise funds from qualified and accredited investors. It cannot solicit funds from retail investors or from the general public. Such funds' regulatory and legal requirements are much lower than for funds that are accessible to retail investors, and this gives the funds greater freedom in how they handle aspects of their business. They have a very different business model from retail banks. Their time horizon for return on investment is relatively short and they seek higher short-term returns in contrast to the lower long-term returns sought

by banks. I have been asked to outline the pros and cons, as I see them, of banks selling non-performing loans to private investors. These loans may be commercial property loans, business loans, buy-to-let or residential mortgages.

I will first outline the potential benefits. Allowing the sale of distressed loans to private investment funds may facilitate debt restructuring to be done more actively and more efficiently. Private funds will have greater flexibility in the resolution of non-performing loans. In the case of a renegotiated loan involving the voluntary surrender of a property, private funds will have more freedom to allow debt forgiveness on the outstanding loan, which is difficult for banks to do. In this scenario, it is possible that customers may be able to negotiate a better deal with a fund than they would be able to do with a bank. Finally, private funds can offer badly needed liquidity to banks for non-performing loans, which is not otherwise available.

However, there are also risks. Loans may be sold too cheaply. This will depend on how much liquidity exists in the market and this will be for banks to negotiate. There are concerns around consumer protection. As the private investment funds are unregulated, they do not fall under the remit of the Central Bank. However, under legislation introduced in 2015, if loans are sold they must be serviced by a credit servicing firm, which must be authorised and regulated by the Central Bank. As such, it will be subject to the same consumer protection legislation as banks. However, even when consumer protection regulations are adhered to, there may still be reputational risk for banks if funds are perceived to be acting aggressively or unreasonably with their former customers.

Finally, there is a potential risk of an increase in forced repossessions, although there has been little evidence to support this to date. Research by the UCC economist, Mr. Seamus Coffey, has shown that the rate of repossessions of family homes and buy-to-lets in Ireland is extremely low compared to our EU counterparts. At the time of his report, Mr. Coffey found that since 2010 repossessions accounted for only 1.4% of mortgages and the rate of repossession by private funds was lower than that by banks.

While it is essential that the most vulnerable in society are protected through schemes such as the mortgage to rent scheme and that high standards of consumer protection are ensured, I will conclude by summarising what I see as the risks of not resolving the issue of high levels of non-performing loans in Irish banks. It delays the resolution of non-performing loans with borrowers. It creates an issue of moral hazard around mortgage repayments, by which I mean that there is less incentive for current and future borrowers to abide by the terms of a contract if the contract is unlikely to be enforced. Secured lending is not secured in reality if repossession continues to be such a lengthy and difficult process and this risks creating a dysfunctional mortgage market. This would lead to a lower supply of new credit and higher interest rates than would otherwise be the case for the market as a whole in the future.

Chairman: I apologise to Mr. David Hall. Things changed a bit this morning. Dr. O'Hagan-Luff has just concluded her opening statement. We will now hear the opening statement from Mr. Burgess. We will then go to Mr. Hall.

Mr. Brendan Burgess: I would like to look at the bigger picture. As legislators, it is absolutely incumbent on committee members to look at the bigger picture when considering mortgage issues, mortgage arrears, vulture funds or personal insolvency legislation. The biggest number is that there are 300,000 borrowers, citizens of this State, who are paying the highest mortgage rates in Europe. I have been campaigning on this issue for a number of years. The response of the banks, the Central Bank, the Department of Finance and everybody else is to

point to the high levels of arrears and non-performing loans in Ireland to justify charging extra. I do not accept that excuse is an explanation for all of it. It is an explanation for part of it. However, if we want to protect the vast majority of responsible borrowers, it is absolutely essential to allow the banks to deal with the very small percentage - about 2%, roughly 10,000 borrowers - who are not prepared to pay their mortgage. If I do not pay my mortgage, then Dr. O'Hagan-Luff and Mr. Hall will be asked to pay it for me. I do not get free accommodation. It is free to me, but somebody else pays it for me.

There are 24,000 borrowers who have been arrears for more than two years and 10,000 borrowers have been in arrears for more than five years. These are recent Central Bank figures. This would not be tolerated anywhere else. It is an extraordinarily high level of arrears. The vast majority of people take their responsibility seriously. They are the people I am most interested in. I regularly go down to the repossession courts to watch what is happening. I invite all of the committee members to go down to their local repossession court or to the one in Dublin to see the carry-on that takes place and how difficult repossession is. In my submission, I have outlined three case studies from last Thursday. There is no selection or bias here. These are three from last Thursday alone. I have set out the details. I will deal with one in particular. I am using the borrower's initials, SM. She is a Start Mortgages customer. She borrowed €267,000 in 2008 and today owes €350,000. The last time she paid was six years ago. She is not that unusual. She is unrepresentative of mortgage holders in general but she is not unrepresentative of many mortgage holders who are before the courts and have orders granted against them. She had the usual two years or so of a mortgage arrears resolution process, when the banks were dealing with customers before getting anywhere near coming the heavy with them. She has been in the courts process for four years and her case has been adjourned on multiple occasions. She said she was going to go from mortgaging to renting and she got an adjournment on the basis that she would engage with MABS. However, she did not engage with MABS and it stopped representing her. She is investigating a personal insolvency arrangement and has excuse after excuse but she is paying nothing. It is the rest of us who are paying for her.

I would like vulture funds to be redundant. I do not particularly want to see them operating in this country but if we are not going to allow the banks to repossess houses, vulture funds are necessary. A bank repossessing a house with a mortgage with a nominal value of €100,000 would probably collect in the region of €80,000 if it were allowed to do so, with a 20% write-off in the process. If it sells the house to a vulture fund, it would get €50,000 or €60,000 so it loses money by doing so. It would be much better to allow the bank to repossess the house.

Having said all that, I want to see protection for responsible borrowers. Some vulture funds have been particularly aggressive in their dealings with customers. Many borrowers got into difficulties some years ago and have now recovered but if they had been with any other bank, their arrears would have been capitalised. They would pay a lot of capital and their mortgage would be paid off at or around their retirement, albeit at a later time than originally scheduled. They were being harried by the vulture funds, particularly Tanager, but that has now changed. Tanager has become much more open and is facing challenges of its own, including a High Court case with Rolf Kane and the discovery that it has been calculating repayments incorrectly. Tanager is now engaging fairly well with borrowers and they are getting good treatment from the company.

In a recent case in Galway which was written up on my website, *askaboutmoney.ie*, AIB initiated legal proceedings when the woman involved was €2,500 in arrears. If members were to go down to the courts, they would see that the biggest users of legal action, by any measure,

are AIB and Permanent TSB. They would not see the vulture funds there too often.

A cohort of people cannot pay their mortgages, or are really struggling to do so, but are doing their best. In my view, they should be getting a mortgage assistance payment. If I cannot pay the rent on my home and I am either on social welfare or a low earner, I will get the housing assistance payment which will help me stay in my home. However, we do not give anything to borrowers and that makes no sense. If I cannot pay my mortgage, I get no assistance from the Department of Employment Affairs and Social Protection. If I sell my house to Mr. Hall and pay rent to him, however, the Department will give me housing assistance payments. A mortgage assistance payment would be very cheap for the Government to operate because, even at the higher rates of interest in Ireland, it is much cheaper to rent money than to rent property. This is at standard variable rates but at tracker rates the Department would be able to pay the mortgage in full - interest and capital - for less than its housing assistance payments to a fund that buys one of these houses under the mortgage-to-rent scheme. A mortgage assistance payment would help far more people, particularly as mortgage-to-rent is an extremely complicated way of dealing with things and the Department of Finance would be very reluctant to see its widespread use because it can never be reversed. Once my house is sold to a fund, it becomes social housing for life unless my situation changes and I can buy the house back at a discount.

In my appendix, I have included some of the figures for the number of mortgages in arrears and how many are family homes, on which I focus as distinct from commercial lending. There are 11,400 non-performing loans on the market. I was delighted that Permanent TSB pulled its split mortgages yesterday. The Central Bank and the Single Supervisory Mechanism have a crazy definition of non-performing mortgages and Permanent TSB had very profitable split mortgages which it was being forced to sell. I do not know what has happened and its explanations have been quite vague. I also list examples of what people have said about all this. Ulster Bank sold mortgages on 900 family homes a couple of years ago. All the loans were in the courts process but, despite that, the bank felt it was better and simpler to sell them because otherwise they would have been stuck in the process for number of years.

I would like the committee to focus on the bigger picture, which is the very high mortgage rates being charged because we do not allow banks to repossess. If we insist that banks are not to be allowed to repossess houses, we should not complain if the loans are sold to vulture funds.

Mr. David Hall: I thank the Chairman, Deputies and Senators for the invitation to give evidence today in respect of loan sales. It may seem strange to say that it is a pleasure to be here but it is for one key reason. No other committee of these Houses recognises more clearly that it is the duty of Irish politicians to speak truth to power. No other committee is more clearly engaged in the key duty of Irish politicians to keep the people safe and that is what I wish to speak of here today. I acknowledge and remind each of the many people who are in arrears who are watching these proceedings. I say a particular “Hello” to my bank and to my vulture fund friends and their spokespersons.

The Irish Mortgage Holders Organisation, IMHO, is one of two registered national charities that advocate for and help people who are in debt. The fact that there are only two tells us a great deal in comparison with other sectors. We negotiate with creditors, informally and formally, via the Insolvency Service of Ireland, and we have an in-house personal insolvency practitioner registered with the service. We also provide a free bankruptcy service after all other options have been exhausted. A quarter of all those adjudicated as bankrupt last year were clients of ours.

Since our foundation in 2012, we have helped over 8,000 families, with 90% of them staying in their homes. I am speaking to the committee today with significant front-line experience of the actual challenges and not from any observer's seat. The mental health of thousands of citizens has been and is suffering from the effects of being tortured by banks, creditors and a system that has protected banks, big corporations and developers but abandoned ordinary citizens. I am very proud of the work done by the IMHO team and board to date but, despite all of that work, I genuinely fear we have entered a dangerous stage in the mortgage arrears story.

We have seen this moment coming for a period. Recognising that many people left behind in mortgage arrears would lose their home, I and my fellow directors established iCare Housing, an approved housing body set up specifically to facilitate mortgage-to-rent. AIB, to its credit, fully supported us in establishing ourselves and has approved us for funding to buy homes. Much to our surprise, and perhaps that of AIB, they took a leap of faith but many more will be needed.

The involvement of a debtor advocate charity to help people via the IMHO has been of great help. We have cases involving 536 families - 2,300 people - in our pipeline and we expect to buy the first 99 homes next month. This change has transformed, and possibly even saved, lives and the combination of an approved housing body and the IMHO has been very positive. I have included a copy of the enhanced mortgage to rent process, which was adopted and changed with the help of the Housing Agency, which has been exceptionally helpful in establishing iCare and moving things forward, and full details of the pipeline and all the various banks it represents to the committee ahead of today. All banks, including vulture funds, are participating in mortgage to rent with one notable exception. Bank of Ireland still refuses to write off the residual debt of those people eligible for social housing. Despite the fact that these people are absolutely goosed and have no money, the bank still resists writing off the residual debt. We work closely with all other debtor support organisations such as MABS, FLAC, Phoenix Project, StepChange and the Insolvency Service of Ireland along with the many personal insolvency practitioners throughout the country. We are proud to be part of this exceptional family that helps debtors in this country. I am delighted to be addressing this committee as I believe it is the strongest voice those in mortgage arrears have in this Oireachtas. This committee has seen at first hand the deception of banks and is probably the only forum in the State where bankers are regularly seen by the public to be held to account. This important work needs to be continued by the committee with the same vigour with which it has been pursued to date.

There has been much commentary from various quarters around loan sales to vulture funds. Many have commented on how vulture funds do good deals and the fact that they give write offs giving the impression they are warm and cuddly. This is rubbish. Vulture funds are a cancer on our society. They have one thing on their agenda and that is feasting on the carcasses of those who suffered because of the gambling by banks. These are ordinary citizens whose lives collapsed when the crash hit, who lost jobs, who became ill, who lost relationships or who lost their lives. One of the greatest affronts to those citizens crucified by the recession was the Government's willingness to sell them out to vultures. This included not only those in arrears but those with performing loans. When someone goes into mortgage arrears, their bank assesses them against its waterfall of restructuring solutions. These include capitalisation of arrears, term extensions, reduction in interest rate, split mortgages and voluntary sale for loss or silent repossessions. This waterfall allows for banks, albeit for their own benefit, to offer solutions that cost them the least amount possible. Yes, 119,000 restructures have taken place, which is very welcome, but the Central Bank recently reminded us that 15,000 of these have failed. Some of these are precarious solutions such as capitalisation of arrears. In spite of vulture fund

lovers' statements, what is critical is the fact that vulture funds do not restructure loans. This point is simply not being understood. They buy to obtain the asset, sell it and profit. If someone wants to lose their home and have their debt written off then vultures are for them. If someone wants somewhere to live, they have a problem if they are in mortgage arrears and their loan is sold to a vulture fund. Vulture funds have no interest in our housing crisis, no interest in any of the stories of those affected and no interest in the people represented by members of this committee in their constituency clinics and in here. As practising politicians, each member has seen this at first hand. Anyone engaged in helping people in mortgage arrears knows this. Those on the side lines profiting from engaging with vultures will blindly support them. Those gurus who claim vultures adhere to contractual terms need to understand that nowhere in any contract does it require the loan owner to offer any restructuring or help. People with arrears have broken the contract and are out of contract. The contract does not exist leaving them exposed. While banks are horrible, out of a mix of legal, fiscal and social necessity and for reasons of PR, they must provide some solutions. By contrast, vultures are a social evil.

I could stay here all day giving examples of how nasty vultures are but, respectfully, the point has been missed. Vultures are a symptom of the failure of Government; the Department of Housing, Planning and Local Government; the Department of Finance; the Central Bank; and the banks. Across all of these self-interested groups, there has been a collective intended or unintended incompetence and-or conspiracy to ignore the fact that the majority of people cannot pay. Banks, Government and bank lovers have allowed a narrative to develop and in some cases, have assiduously fostered the narrative that those in arrears that have not been resolved are messers, strategic defaulters and non-engagers. This is not true. The majority of those in long-term arrears, a number which stands at 31,500 households, cannot pay. I have yet to see someone of sane mind voluntarily turn up to be executed yet some believe they should do so and turn up in a repossession court. Some read details dictated by banks' lawyers about people's non-engagement but very few affidavits are opened in court that state someone can actually pay. I now believe that 17,000 individual mortgage holders, which represents nearly 80,000 people or a Croke Park-full of citizens, will have their homes repossessed. This is because the banks have been complicit in hiding the human crisis and destruction that are ahead. They have hidden the fact that thousands of families simply cannot restructure their loans. They cannot make payments that even meet the Insolvency Service of Ireland requirements and are not eligible for mortgage to rent. This is a human crisis which has not been seen before and this is the actual issue rather than the vultures. The inability of people to pay is the critical issue that has been left behind for those in mortgage arrears.

The banks currently selling loans to vultures are being dishonest. They are cowards by not informing this committee of the severe challenges that exist with customers who have engaged and supplied their financial information but simply cannot pay. They have been vilified as non-engagers. This is simply not true. The banks are outsourcing their dirty work and the vultures will respond enthusiastically by repossessing homes. I believe banks have taken another gamble that it is easier to take the backlash of selling family home loans to vultures rather than the backlash that will ensue from the thousands of customers who cannot pay and whose homes they would have to repossess. Some naively say vultures have not shown any aggression but let us not forget banks have a six-year head start on vultures. Anyone who engaged with a vulture and who tells the truth will ask why they are overly excited about repossessing properties. No loan portfolio in the world performs as well as Ireland given property prices. Many vultures believe they will actually be able to flip on their loan portfolio without having to repossess a single house. Nowhere else in the world is equivalent with regard to house prices going up by 10%.

The banks currently selling loans to vultures are being dishonest. They are cowards by not informing this committee of the severe challenges that exists with customers - customers who have engaged and supplied their financial information but who simply cannot pay. They have been vilified as non-engagers. This is simply not true. The banks are outsourcing their dirty work to vultures who will respond enthusiastically by repossessing homes. I believe banks have taken another gamble that it is easier to take the backlash of selling family home loans to vultures rather than the backlash that will ensue from the thousands of customers who cannot pay and whose homes the banks would have to repossess. Some naively say that vultures have not shown any aggression. Anyone who engaged with a vulture who tells the truth will ask why they are overly excited about repossessing properties. There is no loan portfolio in the world that performs as well as Ireland is with property prices. Many vultures believe they will actually be able to flip on their loan portfolio without having to repossess one house. Nowhere else in the world do house prices go up by 10%.

In representing those in mortgage arrears on the front line, my job is to be truthful with the information we have and the people we represent. The tsunami is coming unless something is done. The data circulated ahead of this meeting showing 600 actual cases shows the challenges - the fact that people have no money and no time and that hidden behind this is ill health, separation, continued loss of employment and the passing of time. Unless steps are taken to establish a NAMA-type organisation that will ensure a debt for equity solution is imposed through the insolvency service or loans that can be managed through a NAMA-type organisation along with immediate reviews of the social housing qualification criteria, we will be walking blindfolded into a massive social crisis. This situation is now so grave that while bashing banks and vulture funds is therapeutic, it actually misses the key issue that 17,000 families, or 80,000 people, cannot pay their mortgages. If we look at the current homelessness list, we can quadruple it because, effectively, that is what is facing us. I thank the committee for its time.

Deputy Pearse Doherty: I thank our guests for appearing before us and for facilitating us to appear together. I will be brief because, unfortunately, I have another scheduled event. I am interested in some of the commentary here, particularly with regard to vulture funds. Mr. Burgess said that every opportunity is being provided to these borrowers before the banks act the heavy, in Mr. Burgess's own words. He refers to himself as a consumer advocate. Obviously, these individuals about whom we are talking were consumers of a certain product. Is it not the case that his position is that the banks cannot repossess these houses so let us send them to the vultures and they will do the job for them? He also made the point that these individuals are likely to pay in respect of social housing so where does he expect these individuals to reside after the vultures put them out of their houses? Is this not greater than an issue of pure raw capitalism? Do we not have a duty as a society to provide housing and shelter to individuals and try to find solutions?

Mr. Brendan Burgess: I agree fully that we as a society have an obligation to provide social housing and to help people. I do not think it is the job of the banks to provide housing to people who do not pay their mortgage. That is just my view. I just do not believe that is the role of the banks. If people are saying they cannot pay their mortgage and that, therefore, the bank should do nothing about it, I do not accept that. I do not think it is right to say that the banks should not be allowed repossess because there are no houses for these people to go to. Mr. Hall is forecasting a tsunami of 17,000 repossessions. I do not expect the level of repossessions to be that high but I would advocate that there should be about 10,000. I would like to see about 10,000 repossessions. I am not suggesting-----

Deputy Pearse Doherty: On what basis does Mr. Burgess want to see 10,000 repossessions?

Mr. Brendan Burgess: Sorry?

Deputy Pearse Doherty: On what basis does Mr. Burgess want to see 10,000 repossessions? What evidence does he have to suggest that?

Mr. Brendan Burgess: There are 10,000 people who are more than five years in arrears. There are people who-----

Deputy Pearse Doherty: That does not necessarily mean they are not paying anything.

Mr. Brendan Burgess: That does not but it-----

Deputy Pearse Doherty: Is it not the case that each one of those people could be paying the maximum their household can pay currently?

Mr. Brendan Burgess: They could be paying something but for a person to get to five years arrears he or she must have had a long period of paying nothing or paying very little.

Deputy Pearse Doherty: No. Let me tease out this point. Unless the bank dealt with arrears capitalisation, a person could have paid only half the mortgage repayment in the first of those five years because he or she may have lost their job. However, the borrower may have paid the full mortgage repayment for the subsequent four years, yet find himself or herself in the category that Mr. Burgess has said is five years in arrears because there has been no arrears capitalisation.

Mr. Brendan Burgess: No. That is not what five years in arrears means. There are a few ways to reach five years in arrears. If a person pays nothing for five years, he or she will be five years in arrears. If a person pays half their mortgage repayment for ten years, he or she will be five years in arrears. That is what it means.

Deputy Pearse Doherty: Let us look at the analogy. We will take a family who, as a result of both partners losing their jobs, have paid nothing or a small amount for two and a half years. They then make the full repayment for the next two and a half years or longer over a ten year period. In the statistics suggested by Mr. Burgess, this family's home should be repossessed at a point where they may be making their full mortgage repayments and may have been paying a proportion of their mortgage for a period.

Mr. Brendan Burgess: I covered that in my opening statement. Has the Deputy received that?

Deputy Pearse Doherty: I have.

Mr. Brendan Burgess: I covered that in the statement. People who have historical arrears who are paying their mortgage at the moment - I referred to those who are paying 3% of the balance outstanding - should be protected.

Deputy Pearse Doherty: I am trying to drill down into this. Where does Mr. Burgess come up with the fact that 10,000 people should lose-----

Mr. Brendan Burgess: They are Central Bank figures.

Deputy Pearse Doherty: -----possession of their houses given that we now know - and we both agree - those people who are five years in arrears can include many people who are making the maximum payment they can currently afford? It is not that these people are not paying a penny for five years.

Mr. Brendan Burgess: There are three cohorts, including those who are paying their mortgage repayments in full who are not in arrears. There are also those who genuinely would pay if they could pay, but they cannot do so due to marital breakup and so on. I want to see the mortgage assistance payment paid to those people to help keep them in their homes. I am very clear about that. There are, however, people who are paying absolutely nothing. If a person had social housing-----

Deputy Pearse Doherty: This is key. Is Mr. Burgess claiming there are 10,000 people who are paying absolutely nothing?

Mr. Brendan Burgess: I am claiming there are about 10,000 people who have been totally irresponsible, who are paying nothing and who could pay something. If a person has social housing and is getting housing assistance-----

Deputy Pearse Doherty: Where does that data come from? What is the source of the figure for 10,000 mortgage holders who are paying absolutely nothing?

Mr. Brendan Burgess: We are aware that 24,000 mortgages are in arrears for more than two years. We are aware that many of those are, in my view, perfectly sustainable mortgages. These people are paying either in full, or they are paying the interest in full. We are aware that some 10,000 people have not paid for more than five years. I am down in the courts looking at the likes of these people, although in many cases they do not come in to the court. When they come into the courts they get adjournments and they pay nothing. If a person has-----

Deputy Pearse Doherty: I just need to ask -----

Mr. Brendan Burgess: -----social housing or if a person has housing assistance payment, and if he or she is on social welfare, that person is expected to pay between 15% and 20% of income towards the housing. There are lots of mortgage holders, however, who are paying absolutely nothing. I come from the same rough background as Mr. Hall and I want to help people who are trying.

Deputy Pearse Doherty: I get that, and with respect to Mr. Burgess he has provided the committee with a solution with regard to the mortgage housing payment, but he is also arguing for sales to the vulture funds. The argument, put forward by many, is that we should not sell to the vulture funds because we need to come up with other solutions to try to deal with individuals who simply cannot afford to pay. Mr. Burgess is entitled to his opinion, with which I disagree strongly, but his commentary creates an atmosphere that makes it difficult to argue it as a consumer advocate position.

I must challenge Mr. Burgess on his point that 10,000 repossessions should take place. The witness repeated the figure in his reply when he said that in his view there are 10,000 people who are paying nothing. Can Mr. Burgess back up his assertion with any data provided by the Central Bank? In his response I ask that him not to refer to those people who are in arrears. It is very clear, as I believe we both understand, that the number of people who are in arrears does not equate with the figure of those who are paying absolutely nothing.

Mr. Brendan Burgess: I have asked the Central Bank to publish the data around the numbers of people who are paying nothing. For some reason, the bank will not do this. Let us-----

Deputy Pearse Doherty: Where does the figure of 10,000 people come from?

Mr. Brendan Burgess: It is an estimate that can be worked out from the number of people who are in arrears for more than five years, and the number of people who have been in arrears for more than two years. One can then go down to see what is happening with repossessions in the courts. Let us assume that my figures are completely wrong and that there are only some 3,000 people who are paying absolutely nothing on their mortgage repayments. Let us say it is only 3,000. My solution of removing them from their houses should apply to those 3,000 people.

Deputy Pearse Doherty: I will move on as I have limited time and my colleagues want to come in also.

Will Dr. O'Hagan-Luff comment on the proceedings around the legal difficulty in repossessions? Mr. Burgess presented the committee with three case files representing how the system is not working. In two of the cases orders were granted by the courts for repossessions. This may indicate that the system did work in the banks' favour in two out of three of the cases, despite the length of time that Mr. Burgess had argued. Is there a legal impediment to repossessions or is it the case that judges are being as flexible as possible given the social background and consequences of the housing crisis? This morning we heard stories of children and their parents being forced into Garda stations when they have had no accommodation. Is there a legal impediment that results in not repossessing?

Dr. Martha O'Hagan-Luff: I thank the Deputy for his question on legal impediment. I am not a legal expert so I cannot comment on that in any informed manner. I understand that the judges are in a very difficult position. They are trying to protect families and look after the most vulnerable. I understand that some of the repossessions that have occurred are of vacant or abandoned properties. Those would seem to be far less difficult cases. It is always a balancing act between showing compassion to the vulnerable in society and in creating a space where our mortgage system is seen as dysfunctional and would handicap future borrowers and the supply of new credit. I do not in any way suggest that those decisions are easy to make; they are not easy. There are hard choices between the hard luck cases on the one hand - where we would try to protect the vulnerable - and the other extreme where a decision could create the issue of moral hazard. If individuals think that contracts will not be enforced, it may reduce the discipline to repay in the future. It is a very delicate balancing act between those two forces.

Deputy Pearse Doherty: I have made this point to Mr. Hall before, but again I thank his organisation for the assistance it provides to individuals and for the engagement I have had with it, as a public representative, on behalf of constituents. We get an insight into some of the detail of these cases. Other questions will be picked up by my colleagues, but I have one question about when an individual has failed to secure an agreement with his or her bank around a compromise solution. Mr. Hall pointed out that there are a suite of solutions and none of them has to be adhered to by any financial institution. When an individual fails to secure an agreement and the bank issues legal proceedings or suggests the only option is repossession or voluntary surrender, how does Mr. Hall encourage mortgage holders to continue to pay the maximum amount they can pay? I do not dispute some of the statistics we hear regarding the number of people who have not paid their mortgages for a number of years. When we look more deeply into those facts, we sometimes find that the bank refused to look at debt settlement agreements

or other options and instead issued legal proceedings against the mortgage holders. In such circumstances, some borrowers decide to stop paying and to fight their case in the courts on the basis that they are going to lose the house anyway. How does Mr. Hall believe such cases should be dealt with?

Mr. David Hall: A key aspect of this debate is being missed. In advance of today's meeting, we circulated details of 600 cases which were deemed unsustainable even though those involved had engaged with the lenders and supplied financial statements. People who have been tortured for the past ten years have received letters from their banks saying, "Dear John, you are goosed". According to the Insolvency Service of Ireland's statistics for the first quarter of this year, 40% of personal insolvency arrangements were vetoed - voted down - by banks. People are encouraged to come forward and go to court, only to be executed despite what the banks may have told them in advance. In the case of the cohort of people who have refused the solutions they have been offered, it is on their own heads. Their own tragedies are ahead because they have not accepted those solutions. Data are not available on the cohort of people mentioned by Mr. Burgess - those who have not engaged. They may have engaged with politicians, with MABS or with ourselves. We may have done the assessment on their behalf and found out what the bank has already found out, which is that they do not have the money to pay. Is it right to encourage those who do not have the money to pay their mortgages to continue to pay €200 a month as a delaying tactic and hope for the best? They might do so as a delaying tactic. The legal system is currently the only system in the State that is preventing mass repossessions. It is not Government policy that is preventing mass repossessions. It is very difficult to say to somebody that they should continue to pay even though they are going to be executed. The Central Bank has yet to release data in respect of the most important question that has yet to be asked of all the banks. How many customers have engaged with their banks, which have assessed their full financial details, only for the banks to decide they cannot help them? That is the first true question to be considered when we are assessing how many people will lose their homes. If a bank cannot restructure one's loan, one has no chance. It is very difficult. We have a very odd policy. It is not necessarily politically correct. Why would one pay for one's own funeral?

Deputy Pearse Doherty: I will leave it there. I will come back on some of the issues that have been raised, including the 17,000 figure. I am sure others will pick up on these issues as well.

Senator Rose Conway-Walsh: I thank the witnesses for their presentations. I note with interest what Mr. Burgess is saying. Does he agree that the banks have a social responsibility given that their debt was socialised, which caused the collapse of the whole economy? I think he is looking at non-performing loans and GDP-to-credit ratios in a narrow and abstract way. Do the private banks, followed by the vulture funds, that caused all of this not have a social responsibility to reach agreements with people who are trying to pay?

Mr. Brendan Burgess: I agree with the Senator. The banks absolutely have a social responsibility. It is very clear. Mr. Hall has said that 90% of his 8,000 customers have stayed in their homes. I imagine that Mr. Hall's figure might be a bit higher than the figure for ordinary people going into their banks, but it is roughly the same. The banks reschedule approximately 90% of homes. They show extraordinary forbearance. This is one of the problems with the vulture funds. People tend to be critical of the banks, but they have restructured 90% of loans. I suggest that loans which are sold to vulture funds are less likely to be restructured. I agree with the Senator that the banks have a social responsibility. I think they show that. They take legal

action as a last resort. Different banks have different strategies. It is really only when people are paying nothing that the banks take legal action.

Senator Rose Conway-Walsh: I am concerned that reference is being made to a headline figure of 10,000 people who do not engage as a means of setting a narrative. I do not agree with what has been said about those who can afford to pay their mortgages. I pay my mortgage, but I understand that some people cannot afford to do so. I think they should be taken off the table. We are not talking about people who will not engage. I know of numerous people who have tried to engage with banks and vulture funds. They are put from Dublin to Belfast and all over the place. They will not engage. I have worked out household accounts, etc., with people to see what they can afford. It comes down to what is spent on a child's birthday present or communion. People are trying to pull back here or there. The banks and the vulture funds come back to them and say that what they are trying to do is not good enough. The banks and the vulture funds will not engage in such instances. Those people are trying. People with a mortgage repayment of €500 are offering to pay €300, but the banks are saying "No, we need the whole €500."

Mr. Brendan Burgess: This comes back to the question that Deputy Doherty asked Mr. Hall about how a person whose loan has been classified as unsustainable can be encouraged to pay. An article on my website offers people advice on what to do if the bank classifies their mortgage as unsustainable. I make it clear in that article that if one's mortgage repayment should be €500, and one can and does pay €300, there is not a hope in hell that the bank or the vulture fund will succeed in getting an order for possession. That will continue to be the position unless things change dramatically in this country. I recommend to people that they should pay what they can and go into the court - it is usually in front of a registrar rather than a judge - to tell their story. Many cases are brought to court. The vast majority of cases before the courts - it is probable that there are approximately 10,000 cases there now - are struck out. The reality of the situation is that one should pay what one can. I think that is the best advice that can be provided by those who are seeking to advise individuals. I have said in my paper that banks should be prevented from taking legal action against people who are paying - for example - 3% of the outstanding balance. I genuinely want to protect the people who are paying. I want to see a mortgage assistance payment for people who cannot pay want to make an effort. A small minority of people who are not paying but could pay are being used by the banks as an excuse to charge the other 300,000 people the highest mortgage rates in Europe.

Senator Rose Conway-Walsh: I am worried that the 10,000 figure is being used to set a narrative in the absence of a solid basis for that figure. I am reminded of the way insurance companies attribute fault to people who have accidents and have to claim. I do not think that should be done. I can explain why we have the court cases and all of that. Mr. Burgess has told us to go to the courts. I have been to the courts. I go to the courts and I see what happens. I see banks and vulture funds refusing to take offers from people who want to buy out their small amounts of debt, and then selling the same debt to a vulture fund for a much smaller sum. Will Mr. Burgess explain why they do that?

Mr. Brendan Burgess: Absolutely. If I hear that Mr. Hall's mortgage is €300,000 and he has bought it out for €200,000, I will stop paying my mortgage and I will try to get the same deal. It is as simple as that. If I hear that Mr. Hall's mortgage has been sold to a vulture fund, I will be very sorry for him. It is perfectly reasonable for the banks not to write off debt for somebody who retains ownership of his or her home. It is absolutely the right thing to do. I will balance that by saying that anybody who loses or surrenders his or her family home should

have the shortfall written off.

Senator Rose Conway-Walsh: Does Mr. Burgess think the banks are right to sell off a person's loan to a vulture fund for less than they would get if they allowed that person to stay in his or her own home? We have to remember that the vulture funds ultimately do not have to pay any tax on their profits, or pay a minimal amount of tax on them.

Mr. Brendan Burgess: It depends on how it is structured.

Senator Rose Conway-Walsh: The vulture funds do not pay their share of tax in this country.

Mr. Brendan Burgess: I would disagree with that as well. The vulture funds should pay tax.

Senator Rose Conway-Walsh: Yes.

Mr. Brendan Burgess: That is a legislative issue.

Senator Rose Conway-Walsh: If we compartmentalise everything, then we are not getting a picture of what needs to be done in terms of homelessness, housing, fairness and justice for people, and to keep them in their own homes. People are willing to pay what they can afford to pay.

Mr. Brendan Burgess: I fully agree with the Senator.

Senator Rose Conway-Walsh: Will Mr. Hall comment on why banks are choosing to sell to vulture funds rather than to do a restructuring deal with the person who is in the home?

Mr. David Hall: Part of the problem is the Central Bank of Ireland. The Central Bank set the rules in respect of what the banks are allowed to restructure. The Central Bank has shown minimum flexibility in allowing the banks to restructure loans. They would not understand. One would want to send them a dictionary so that they would understand the word "radical". They would have to look it up. The Central Bank of Ireland would not understand what the word "radical" means. Therein lies the problems.

The banks are completely controlled in what they are allowed to do by the Central Bank of Ireland. On many occasions one could have a go at a bank and be in dispute with a bank around similar circumstances to what the Senator mentioned about people who had approached her in court, where there is a small differential between where the loan can be salvaged and where they cannot be salvaged. They will not accept it. The mistake being made by many people - and this goes back to Deputy Pearse Doherty's question - is that this is not an *à la carte* normal negotiation that people engage in. This is a prescribed production line, prescribed by the Central Bank of Ireland in an inhumane, callous manner that is governed by a code that is an administrative process designed to tick some boxes and not provide solution. Some 33% of the people who are in the 119,000 category whose loans have been restructured are capitalising the arrears, that is just adding it on and elongating the loan. I know that Mr. Burgess has mentioned that the interest rates are the highest in Europe. AIB is not doing too badly with the high interest rates and it made €1.6 billion last year. It will make a bit more money if we decide to throw out a couple of thousand people on the street. It is all relevant. There is a social responsibility on banks. Banks by their mere existence are there at our behest, having pumped billions into them. I do not know if they have got amnesia. I know that dementia is rampant throughout the country.

We have a major problem with people forgetting that we pumped billions of euro into the banks and they have a social responsibility. One point Mr. Burgess has mentioned is correct that there is an obsession in banks in relation to ensuring that nobody is seen to get a deal, whereas somebody else might to voluntarily stop making payments.

Senator Rose Conway-Walsh: I am absolutely disgusted that the vulture funds have refused invitation after invitation to come before this committee. I want to ask each of the witnesses a question on the vulture funds. If the vulture funds have nothing to hide and it has been said that one can do a restructuring deal with them because they are a servicing agent and are not ruled by the Central Bank of Ireland and all of that and they have flexibility to negotiate, why will they not come before this committee?

Mr. Brendan Burgess: There is no flexibility. That is a myth, that is a spin. That is pure blatant PR. One of the funds, Maurice Capital has evolved in the past number of months and has started to introduce some of the restructures that are similar to the banks, which is welcomed, but ultimately a vulture fund does not provide any restructuring solutions. It is a myth that they will write off debt and one can sit down and have a chat with them; that is blatant rubbish peddled by banks, by vulture lovers and by vultures. They will not come in because they cannot tell the truth. They have done nothing wrong. The vulture funds get a red carpet rolled out, they are brought in and a State-owned bank gave them the first cut at the market place. What chance had people got to engage if they thought their loans were going to be sold on?

Vulture funds have done nothing wrong. They are feasting on the carcasses of debtors and it is a policy of Government to outsource dirty work and vultures are the companies that will do the repossessions.

Senator Rose Conway-Walsh: If the vulture funds have nothing to hide why will they not come before this committee?

Mr. Brendan Burgess: I have to be careful how I say this. Most people would perceive that the Committee of Finance, Public Expenditure and Reform and Taoiseach is a star chamber and the Chairman and members would not listen to any sort of reason and would be grandstanding and taking shots at them, and anything they would say would be contradicted.

Senator Kieran O'Donnell: And how.

Senator Rose Conway-Walsh: Does Mr. Burgess agree with such an assessment? Does he agree that the committee members would be so unreasonable to vulture funds?

Mr. Brendan Burgess: To be honest, I have seen the hearings on various different issues where the witnesses have been attacked. I am not just speaking about finance committees but, generally speaking, politicians have a go at people. The Senator has asked the question, I am giving her the answer to the question.

Senator Rose Conway-Walsh: Okay.

Mr. Brendan Burgess: I would like to see the vulture funds being brought in and being asked to explain their position. I would like an interchange of views and factual information, such as an answer to the question of whether it is true that they do not capitalise arrears and what solutions they offer. I would like to see them being asked how many loans they have bought. I would love to see that data. If they were asked to give that information, they probably would, but if they are asked to come before the committee to be told about their social responsibility to

keep people in their houses - - - -

Senator Rose Conway-Walsh: They are many questions that we would like to put to the vulture funds in public.

Mr. Brendan Burgess: I would love to see these questions being put to the vulture funds as well. That is why they will not come before the committee.

Senator Rose Conway-Walsh: If we promised the vulture funds to deal with them gently, would they come in?

Mr. Brendan Burgess: There is a tendency in committee to grandstand, is that the word?

Senator Rose Conway-Walsh: There is a tendency to try to get to the truth.

Mr. David Hall: That is the problem.

Senator Rose Conway-Walsh: That is the only reason that my colleagues and I are here.

Mr. David Hall: Awkward questions are the problem.

Mr. Brendan Burgess: Would the vulture funds answer the questionnaires that the committee sent to the banks before they appeared before them every quarter?

Senator Rose Conway-Walsh: I just need to ask Mr. Burgess one more question. Does Mr. Burgess think it is reasonable that these vulture funds have access to the Department of Finance, that they are traipsing in and out of the Oireachtas week after week and month after month, having access to the very heart of Government? Is it right that they have that access or should that access be stopped until they come out publicly and tell the truth about all of these things?

Mr. Brendan Burgess: I have not really thought about that issue. I presume the officials from the Department of Finance should be meeting with the various vulture funds and such people to find out what is happening.

I agree with the Senator and I would like to see them come before a committee. I would like to see the committee system operating as an inquiry, seeking the facts and information rather than the grandstanding that I often see.

Senator Rose Conway-Walsh: Does Mr. Burgess think that the tracker mortgage debacle and scandal would have been uncovered if it was not for the questions that were put in this committee?

Mr. Brendan Burgess: We have been highlighting the issue for years on my website, calling on the Central Bank of Ireland to deal with it. I have been aware of that issue for a long time and have pushed on it. The reason it has become an issue - and I pointed this out yesterday at the annual general AGM of Permanent TSB - is because the Financial Ombudsman found in favour of these borrowers and Permanent TSB went to the High Court to appeal the ombudsman's decision and then to the Supreme Court. That is what got the Central Bank of Ireland going. I have no doubt but that this committee was a great help. Let us be clear it was the fact that the Permanent TSB appealed a case to the Supreme Court which woke up the Central Bank of Ireland.

Senator Rose Conway-Walsh: So it was nothing to do with the work of the Joint Commit-

tee on Finance, Public Expenditure and Reform, and Taoiseach, which gave those who suffered as a result of the debacle a voice.

Mr. Brendan Burgess: Four borrowers came before the joint committee, but members asked them very few factual questions about their cases. The members asked them about the effects their dealings with the banks had on them, but the committee did not ask them to tell the members what was in their contract, why they lost their tracker mortgage and what were the issues involved.

Senator Rose Conway-Walsh: We knew that information already. We wanted to hear about the impact of that scandal on people.

I need to ask Mr. Hall whether he thinks it is right that these vulture funds have direct access to the Department of Finance and to the Minister for Finance, when they will not appear in public before a committee.

Mr. David Hall: Absolutely not. At the last count, it was 65 vulture fund visits versus five debtor advocacy visits to the Department of Finance. The vulture funds get the red carpet. It is quite bizarre. There are few other jurisdictions in the world where one is engaged in a procurement process to transact billions of euros that one will get direct access to those who control it. It is very odd in other procurement rules that one would be allowed to have access to people who have influence over significant share holdings and two big lenders. It is a bizarre system. It is one that is both unique and unwelcome. I will temper my comments by saying that to be fair to them, those vulture funds have done nothing wrong. They are despicable, are a cancer in our society and should not be here because the banks should have been forced to resolve these issues themselves.

In relation to Mr. Burgess's point, he probably stopped himself at the appropriate time before he went over the cliff in respect of challenging the four people who came before this committee. Let us be very clear, that is the job of the committee. As regards those people who are looking in today and those people who had tracker mortgages, the tracker debacle and scandal, as it is appropriately called, is despicable. The banks obscured details and facts. We went from 3,000 to more than 34,000 individuals. That, in itself, speaks volumes. The work the committee has done and the appearance here of those four persons is of huge help. Let us be absolutely clear, however, this tracker issue was an issue about banks, not about the behaviour of a committee or anything else. Therein lies the undercurrent of the behaviour that we are seeing in other parts of the system over recent weeks in respect of covering things up and hiding things.

Senator Rose Conway-Walsh: I know others want to contribute, a Chathaoirligh, and I thank all the witnesses.

Deputy Michael McGrath: My thanks to our three guests for their interesting opening statements and good engagement. In response to Mr. Burgess, were the funds to come in, they would get a fair hearing. They would get lots of questions, for sure, but would get every opportunity to set out their case in a factual manner. I do not think they are not coming in because they are afraid of being asked hard questions or a little bit of grandstanding. It is because they do not want to be accountable. They operate under the radar and public accountability is anathema to them. I do not think it is anything to do with their concern about the committee grandstanding, as they would get a fair hearing. We have tried on several occasions, and the committee went through with the clerk in private session earlier on a schedule of correspondence to and from these funds and they refused to come in. Most of the credit servicing firms, which are

regulated entities, refused to come in as well. The Central Bank, whose representatives were in here last week, does not want to regulate the funds and yet they will not be held accountable by anybody. This is difficult to understand.

I will put a number of questions, starting with Dr. O'Hagan-Luff. Can she tell the committee about the international experience when these funds come in and buy distressed assets? How does this play out over a period of ten to 15 years? In her statement, Dr. O'Hagan-Luff states that they have a different business model, which is relatively short-term and looks for higher short-term returns, perhaps even over as short a period as two or three years. Given that the funds started coming in here in a very significant way with the NAMA disposals from 2012 to 2013 onwards, how will this play out? Will they close out those loans eventually by accepting full repayment and work out those loans over time? Will they foreclose and take the assets? Or will they sell them on? If they sell them on, what is the next layer, that is, who is buying the loans the second time around? Internationally, how does this play out over time?

Dr. Martha O'Hagan-Luff: I thank the Deputy for the question and will do my best to answer it without knowing what is about to happen in the future with any level of certainty. I will try therefore to predict what might be the possible scenarios. The timeframe is short-term. They will try to buy loan portfolios at a discounted price and that will be up to the banks to negotiate and they will try to make back a profit over a set period. The Deputy mentioned forced repossessions. It is not my understanding that these funds will have an easier ride of forced repossessions through our legal system than the banks currently have. Unless something dramatically changes in the legal system, I do not predict that will be an easy route for them. If one takes a very pragmatic approach, one could ask why would they go down that route if it is just more time and money from their perspective.

What I would predict is that - Mr. Hall probably will disagree with me and he is a much greater presence at the coalface than I have - where one has a property in negative equity with the banks with a mortgage of €400,000 and the property is worth €300,000, one would have very little incentive to voluntarily surrender that property now because that person is still on the hook for the €100,000. The person would be better off waiting and hoping that the price rose in order that one would be in less negative equity. Whereas if one is dealing with a vulture fund, one knows it has a short time horizon. The banks have that contagion idea, which makes it very difficult for them to do a deal with one mortgage holder - although that they have done some deals - without offering deals to everybody. The funds, however, will have more flexibility to engage because there will not be that same contagion risk and they will be under more pressure to get deals done more quickly. In addition, they will have bought these loans at a discount and consequently will be happy, as long as they get some uplift. If they get their 10% or 12% return or whatever it is, they will be happy. It will be in their commercial interest to make a deal.

Deputy Michael McGrath: My question for Dr. O'Hagan-Luff essentially is based on the international experience. I am not asking her to predict what is going to happen here but internationally, when such loans are purchased, many of which have 15 to 20 years left in them, and this does not align with the business model of such funds, do they close out these loans over a period or do they sell them on?

Dr. Martha O'Hagan-Luff: It is a mixture of both. In terms of a full international comparison, I do not have enough information to say this is exactly what happened. I can say that the market for distressed debt in Europe is extremely low and under-developed compared with the US market and is around one tenth of the size of the US market. It will be a mixture of the two elements the Deputy has suggested, namely, restructuring or voluntarily gaining access to

the collateral, be that in the form of buy-to-let or residential mortgages, and selling it. Alternatively, if the property market rose over time and they had purchased these assets at a discount, they could sell these on at a profit, which would be another option for them.

Deputy Michael McGrath: Who buys loans from vulture funds?

Dr. Martha O'Hagan-Luff: They can sell on to other funds. If the mortgages start re-performing-----

Deputy Michael McGrath: Not just in the case of mortgages but commercial debt as well-----

Dr. Martha O'Hagan-Luff: If a loan starts re-performing, the bank could re-purchase such a loan, because the problem for banks is that the cost of holding these non-performing loans is punitive. They have provisioning costs. They have regulatory capital costs. Their funding costs are higher if they are perceived to be riskier banks because of holding these portfolios. There are costs and disadvantage for firms-----

Deputy Michael McGrath: Is the witness is saying is that banks could end up buying back distressed loans, because they would be buying them at a reduced price, where the loans are no longer then accounted for as non-performing loans, NPLs, on their books?

Dr. Martha O'Hagan-Luff: They would need to be returned to being re-performing loans, that is, under the initial contract to not be accounted as non-performing loans.

Deputy Michael McGrath: Does it not depend on what they paid for the loan?

Dr. Martha O'Hagan-Luff: I am not sure of the ins and outs of this-----

Deputy Michael McGrath: I know that is a technical issue. What I am trying to tease out here is the endgame as to where all of this goes. Around Dublin I have seen that professional advisers have lists of loans and are offering them to people who they think may be interested in buying these loans. It is not the loans that are being marketed. It is the property behind the loan. It could be land, commercial buildings etc. It plays out a number of ways but one stream of it is that it gets sliced and they sell it off as individual loans, bundles or parcels of loans to other interested parties.

Dr. Martha O'Hagan-Luff: The Deputy is right; those are the two options. One either settles or gains access to the asset and that becomes supply in the market-----

Deputy Michael McGrath: In a case where a family home mortgage is purchased by a fund and one's mortgage has 15 years to run, is there any scenario in which that fund will be accepting one's final mortgage payment in 15 years time?

Dr. Martha O'Hagan-Luff: I do not believe that the same fund that bought it will still be in the market in 15 years time. That is not its business model.

Deputy Michael McGrath: That is the point. Is it appropriate that an institution with a very short-term investment horizon is buying long-term financial products that may have 15 or 20 years left in them? Such an institution would have no interest in working out those mortgages over the full duration of the contract. Something has to give in that scenario.

Dr. Martha O'Hagan-Luff: The Deputy is absolutely right. The optimal outcome would

be that the banks did not have to sell any loans to vulture funds but it is a balancing act. We are ten years past the crisis and unfortunately the banks still have very high levels of non-performing loans. In terms of the social aspect of it, while there is a cohort of borrowers with 15 years left on their mortgages, there is also a cohort of small and medium-sized enterprises, SMEs, that need new funding, that have to pay higher interest rates and that have limited access to credit. In terms of the country as a whole, our banking system will continue to be very vulnerable because of the high cost of holding non-performing loan portfolios. Unfortunately, we have a small, open economy which means we are vulnerable to exogenous shocks and will be vulnerable in the next economic downturn. There is a necessity here because the cost to the banks of holding these portfolios is very high. I am sure the banks wish that they did not have to take these steps but a balance must be struck between the health of the bank, the rest of the country and future borrowers and the interests of those whose loans could not return to be performing.

Deputy Michael McGrath: Dr. O'Hagan-Luff mentioned the issue of securitisation in the context of Lone Star, which securitised loans that originated with Irish Nationwide. I ask her to explain the impact of securitisation, the benefit for the bank and where the ownership of the loan resides. Where does the beneficial ownership lie and who is making the day-to-day decisions on the work-out or management of that loan? If a bank securitises a mortgage, what impact, if any, does that have on the borrower?

Dr. Martha O'Hagan-Luff: Securitisation can happen with performing as well as non-performing loans. I certainly would have taught that securitised mortgage products were not a bad product initially when introduced in the US. The turning point was when sub-prime mortgages were introduced and financial institutions tried to slice them and achieve a triple A tranche at the top. The securitisation model is not a bad idea in and of itself. It allows banks to originate mortgages and securitise them which frees up their balance sheets to allow the banks to continue to lend. There is obviously a risk in the context of a duty of care and consumer protection. The question arises as to who owns the loans. If they are securitised, they are sold on and they may be resold multiple times. That is the problem to which the Deputy is referring.

Deputy Michael McGrath: Who owns the loan when it is securitised?

Dr. Martha O'Hagan-Luff: There are two different scenarios. In one, the ownership passes on while in the other, there is beneficial ownership. In the latter, the risk and return is passed on but the ownership stays with the originator.

Deputy Michael McGrath: In both scenarios, does the bank continue to service the loan and make decisions on it?

Dr. Martha O'Hagan-Luff: No, not when the ownership is passed on. The bank is the originator but it is passing on the ownership----

Deputy Michael McGrath: Who is the borrower's contact in that scenario?

Dr. Martha O'Hagan-Luff: The new owner. It all depends on how the securitisation is set up. The contact for the customer could be a servicing firm which continues to service the loan over its lifetime or the contact could change every time the loan is sold. It very much depends on how the securitisation is structured.

Dr. Martha O'Hagan-Luff: Having read the Permanent TSB statement yesterday, it appears that this is going to be its solution for the split mortgages. My understanding is that it is heading towards securitisation but we will see how that works out and what form it takes.

Dr. Martha O'Hagan-Luff: I know the Deputy wants to move on but he makes a very important point. This could be a useful tool for banks in the future. The securitisation of mortgages has been done in banks in Germany for decades and it is done very regularly in the USA. It is a useful product but we must ensure that there is adequate consumer protection. We must carefully consider duty of care and make sure that consumer protections follow those loans wherever they go. We want to allow banks to access a useful capital market solution to the funding of mortgages but we want to ensure that there is adequate consumer protection at the same time.

Deputy Michael McGrath: I thank Dr. O'Hagan-Luff. I will move on. We have heard Mr. Burgess's critique of the existing system but I ask him to be clear about what he is advocating. What change is he asking for? Does he want changes to the court process? In the examples he cited, orders were granted in only two cases. Is there a reluctance on the part of judges to issue repossession orders? Is there an issue with the execution of such orders or is the issue a delay in getting to that point? What is Mr. Burgess advocating? What does he want to change?

Mr. Brendan Burgess: I want to see people who are paying their mortgages and who are engaging with their lenders to be protected from the legal process. There are many such people in the courts but they should not be there. I want to see the people who are not paying their mortgages because they do not have the money or who are paying very little off their mortgages, which makes them unsustainable, to receive a mortgage assistance payment. I want to see these people helped. The small cohort-----

Deputy Michael McGrath: Yes, but Mr. Burgess is also saying that he wants to see 10,000 repossessions. How-----

Mr. Brendan Burgess: I want to see the whole system changed so that for the small cohort of people who are paying nothing even though they could pay something and who are giving two fingers to the system, fast orders for repossession are made. I want to see those cases fast-tracked. Fast-tracking repossessions is important so that people understand that there will be sanctions in the short term for not paying their mortgages. In that scenario, many of these people would pay.

Deputy Michael McGrath: What does this new system look like? Is Mr. Burgess saying that the mortgage arrears resolution process, MARP, would be changed for those scenarios and that such cases would get to court faster? What is he advocating?

Mr. Brendan Burgess: There would be a whole range of systems.

Deputy Michael McGrath: Is legislation required?

Mr. Brendan Burgess: Why is it the case that in other countries repossessions can happen within three to six months? I would like to see the system changed. I was a member of the expert group on mortgage arrears which came up with the MARP so I hold up my hands in that regard; we got that wrong. The process is too long and too complicated. I think Mr. Hall has described it as torture. That said, we did not design the standard financial statement; that was done by the Central Bank. The MARP should be very simple and when people are not paying, they should not be getting any protection at all. When a case gets to court, the bar for the lender to repossess a house is very high but the bar for the borrower is very low. In fact, he or she is not required to do anything. On the first visit to the court, there is an automatic practice direction adjournment which can be for three or six months. The borrower does not have to show up

or pay anything. Practice direction guidelines should be issued to court registrars outlining the fact that it is in the national interest that people who are paying nothing and not engaging have their houses repossessed. Such people should not be getting an adjournment and if they do get one, it should be subject to certain conditions such as a requirement that they pay something. The registrar in Bray is very unusual in the way that she operates. She takes a very practical, common-sense approach. She tells people that they have a good chance of keeping their house if they pay something but that if they pay nothing, the courts cannot help them. If people do not show up in court and do not pay anything, the presumption should be that an order for possession will be granted.

Deputy Michael McGrath: I wish to ask Mr. David Hall a question on restructured mortgages, of which he has a lot of direct experience. Are funds restructuring loans or not? We have the Central Bank's quarterly mortgage arrears statistics which tell us the number of restructured loans on the books of unregulated loan owners. However, the statistics cannot tell us whether the fund did the restructuring or whether it was done by the originator of the loan, that is, done by the bank before it was sold on to the fund. We have asked the Central Bank to come back to us with that data. We want to know to what extent these funds are restructuring mortgages. Are they doing so?

Mr. David Hall: No, they are not. It is very simple. With respect, this is not brain surgery. There is nothing top secret here. They are simply not ----

Deputy Michael McGrath: Not at all?

Mr. David Hall: No, not at all. I do not trust banks and vulture funds. They have spun a great spin. They have presented to an Oireachtas committee and spoken in generalities so that the people to whom Mr. Burgess referred are demonised. People in this House and others who have engaged with people in difficulty with their mortgages understand the multiple complexities that are involved, including vulnerability, marriage breakdown, health issues and so forth.

I spoke to Senator Conway-Walsh earlier and mixed up two comments regarding people with dementia and vulnerability. We have a massive cohort of people who are vulnerable. At no stage does the MARP process allow for vulnerability to be assessed with regard to circumstances. Separated borrowers represent probably one of the top five challenges that exist within the State with regard to doing things. I do not trust the banks' data and I do not trust the bank going to court and just miraculously popping up and saying "Sorry". It is a production line.

Deputy Michael McGrath: I want to be specific here. Mr. Hall is an advocate for borrowers and has a lot of direct contact with people. He has contact with these funds or, presumably, it is through the intermediate credit servicing firm. Has he had cases where new agreements have been entered into involving term extension, split mortgage, arrears capitalisation or interest only by a fund owning a loan and the borrower represented by Mr. Hall?

Mr. David Hall: Only Mars Capital.

Deputy Michael McGrath: How many of these funds has Mr. Hall dealt with?

Mr. David Hall: I have dealt with every single one. I supplied two examples just randomly.

Deputy Michael McGrath: Mr. Hall did. Tanager said in writing that it does not do arrears capitalisation, which is the plain vanilla of restructures.

Mr. David Hall: And it does not do mortgage-to-rent, which is eligible for social housing. This is common or garden. Lapithus tells borrowers to sell their houses and having told them they are eligible for mortgage-to-rent, ask them how they are going to repay the balance of the debt. That is not consistent with the message others have presented whereby these are warm and cuddly guys who write off people's debt and is that not wonderful. This flies completely in the face of it.

Deputy Michael McGrath: I will bring the others in. Is it Mr. Hall's view that if someone's loan is sold to a vulture fund, they are less likely to get a loan restructure?

Mr. David Hall: I need to be very clear. The person has no chance of getting a loan restructure. It is not a matter of it being less likely. The person has zero chance of getting one.

Deputy Michael McGrath: Have our other two witnesses anything to add? Is that their experience? Is that true?

Mr. Brendan Burgess: To clarify one issue, I was shocked to see the Tanager letter, which was sent to people about six months ago. Arrears capitalisation is not one of the options we offer. Arrears capitalisation is the simplest rescheduling. It does not cost the banks anything but they have changed their tune. They are now capitalising arrears. I have seen this quite a bit. People who received that letter are now getting deals. To clarify the types of deals that are being done, it is much easier to do a deal on a buy-to-let property than on a family home. If I have a buy-to-let mortgage of €300,000 and the property is worth €200,000, the funds will tell me to sell it for €200,000 and they will write off the shortfall. They, and Tanager in particular, are also saying to borrowers "Look, you've a mortgage of €300,000. We'll take €200,000." They are saying that to homeowners but, of course, the catch is that no other lender will give them the money so they have to get it from family. Alternatively, if the arrears are old arrears, for example, if they arose four or five years ago, I have seen cases where they are able to go to Pepper and get what it calls a near-prime loan. In those cases, there will be plenty of equity. I have seen people being offered very good deals but they always involve paying off the loan.

Mr. David Hall: They also involve people who have money. The common denominator here is money so the person either earns it, gets it or steals it. They are the three options. People have to have money to be able to conclude these deals that involve any of the miraculous Disneyland write offs if they want to keep a roof over their heads. If they want to become homeless and debt free, they should go and knock on a vulture fund's door.

Deputy Michael McGrath: My final point, and it is not a question, is that our problem is that we are flying blind. We get no engagement from these funds. There is no accountability. We cannot get the type of data for which we have been looking. When people will not come before Parliament and will not respond in a positive way to correspondence from an Oireachtas committee that looks for them to appear before it and for data, I get suspicious. They really should be engaging and coming before this committee. They will get a fair hearing. The same goes for the credit servicing firms. If they have nothing to hide, they have nothing to fear. Come in and give us the facts. They may well be able to allay some of the concerns.

Mr. David Hall: I have one point to make about securitisation. We saw very recently that, for the first time, performing loans were sold to a fund, securitised and then became non-performing. That is a very dangerous area where somebody who had a performing loan got sick or into difficulties and then needed a restructure. It is the owner of the loan who is not in a position to look at restructuring the loan that falls away so a major issue arises. The assumption made is

that a performing loan will be a performing loan for life. Performing is not performing for life. Circumstances can evolve so people can end up in difficulty. A significant issue has now arisen where some of the performing loans that were sold were securitised and are being managed by a credit servicing firm, some people have got into difficulties and trying to find the actual owner of the loan to physically make a decision is very technical.

Deputy Michael McGrath: Could Dr. O'Hagan-Luff send a note to the committee on the issue of securitisation to explain the different models and their impact on the borrower, the bank and the entity that is now taking ownership?

Dr. Martha O'Hagan-Luff: Yes, I would be happy to do that.

Deputy Michael McGrath: It would be very helpful because this is going to be an emerging issue.

Dr. Martha O'Hagan-Luff: Can I come in very briefly on the last point? The Deputy asked whether vulture funds restructure. I have heard various things anecdotally and all I can say is that some do and some do not. I have heard that Autoriteit Financiële Markten, AFM, which is the regulator in the Netherlands, has what it calls ten golden principles. It asks banks to sign up to those with regard to loans. When the loans are sold on, those ten golden principles go with the loans. We are putting these funds under the consumer regulation we currently have but could we not attach principles to these loans so that a buyer of these loans must consider restructuring agreements? Rather than this piecemeal approach whereby some funds do while others do not, could it not be conceivable that we say that if they buy these loans, they must consider A, B and C in terms of restructuring? One does not want to make it too punitive but as the Deputy puts it, the plain vanilla split mortgage as option could be tied to this as a condition of buying those loans. It is a suggestion.

Senator Kieran O'Donnell: I wish to flesh out a few points. We hear a lot about funds and the vulture aspect of the title in the fund. Is it a bit of a misnomer because, based on what I hear from people involved in the business with whom I am in contact, most of these funds are effectively nearly 100% geared? They are effectively borrowing money from funds themselves worldwide. They then buy the loans from the Irish banks so they have people to whom they must repay money. This brings about a structure whereby the question of any formal restructuring does not arise because they must repay money to the funds in the US and elsewhere so they are not actually funds at all. Am I correct in my analysis of that?

Dr. Martha O'Hagan-Luff: My understanding of that was different. It was that they are mostly equity financed but I would need to check my facts on that. My understanding was that they are receiving money from pension funds, institutional investors, etc., in the US.

Senator Kieran O'Donnell: They are going to institutional investors in the US but they themselves are effectively working off borrowed money. They are not funds in the strictest sense of the word.

Dr. Martha O'Hagan-Luff: I understood them to be mainly equity finance but I would need to back that up and check it

Mr. Brendan Burgess: The term "vulture fund" is just a term that, generally speaking, is used to describe them. The Central Bank is very clear. They are unregulated loan owners. I would think that most of them are not leveraged and represent pension funds-----

Senator Kieran O'Donnell: My understanding is that this is not the case. I do not know how Mr. Hall would feel about that.

Mr. Brendan Burgess: I am not sure it-----

Senator Kieran O'Donnell: It makes a difference because if an entity is a fund, it has a large amount of capital at its disposal. A pension fund is looking for turnover over a longer period. If an entity is borrowing money and buying loans on the basis of borrowed money-----

Mr. Brendan Burgess: They are all looking for short-term returns.

Senator Kieran O'Donnell: I am just making that point.

Mr. Brendan Burgess: That is just the way they are.

Mr. David Hall: I think it is a great question. Going back to the earlier points made by Senator Conway-Walsh and Deputy Michael McGrath, the committee cannot get the funds in here to put those questions to them because they are the key questions. I think Senator Kieran O'Donnell is right. Again, I do not like using anecdotal examples but in respect of engaging with some of the funds, one can turn up at the meeting to find two of the funds present. I was at a meeting recently where two funds were present where one fund owned the loan but the other one was a co-borrower. The Senator is correct. However, I do not have any hard evidence; it is another classic example of a question that is very difficult to answer.

Senator Kieran O'Donnell: Mr. Hall and Mr. Burgess will have had direct contact with people who have had their loans sold to vulture funds. Is their contact via an intermediary or with the fund itself? Does the fund lurk in the background, making the decisions, while the intermediary meets the witnesses?

Mr. David Hall: I like the description used by the Senator. None of this happens remotely. Much of the engagement happens remotely, but-----

Senator Kieran O'Donnell: Can Mr. Hall give an example of that? Does it happen over the phone or via email?

Mr. David Hall: Some 60% is done over the phone or via email. The remaining 40% is done face to face. The first thing that we have to do is-----

Senator Kieran O'Donnell: What would be the position regarding a fund?

Mr. David Hall: When I attend a meeting, the first thing I have to do is ask who everyone is.

Senator Kieran O'Donnell: If someone whose mortgage has been sold to Cerberus comes to talk to the IMHO, what does Mr. Hall do? Can he walk us through it?

Mr. David Hall: We ask for financial statements, bank statements and payslips.

Senator Kieran O'Donnell: Does Mr. Hall pick up the phone and ring the fund? Does he ring the intermediary?

Mr. David Hall: We try to ring the funds.

Senator Kieran O'Donnell: Mr. Hall has contact within the intermediary. He picks up the phone and tries to contact the funds.

Chairman: The Senator should let the witness walk us through the process.

Mr. David Hall: In terms of the financial statement information to the nominated party, the correspondence has usually come from the intermediary so that is the point of contact. Many of us have tried to assess who the owner represented in the letter might be. Often that information is not included. A letter might arrive from Pepper Ireland or Mars Capital. Sometimes clients contact us and believe that Mars Capital has their loan, but it might be the case that Mars Capital is handling it on behalf of someone else. Much of the engagement is with the intermediaries. It is very difficult, if not impossible, to contact a loan owner. However, there are conflicts.

Senator Kieran O'Donnell: Is it legal to make contact with the loan owner?

Mr. David Hall: We can make contact with them.

Senator Kieran O'Donnell: Do any of the loan owners get back to Mr. Hall once contact is made?

Mr. David Hall: No, they do not.

Senator Kieran O'Donnell: Mr. Hall can continue to walk us through it.

Mr. David Hall: We try to contact the loan owner to ask them why we are having conversations or engagements with a third party which cannot make a decision.

Senator Kieran O'Donnell: Mr. Hall seeks to meet with the client. What happens at those meetings?

Mr. David Hall: What happens is that the client is told "We've looked at your financial statements, your loan is unsustainable and we don't provide the product." The loan owner-----

Senator Kieran O'Donnell: Who attends the meetings?

Mr. David Hall: The intermediary.

Senator Kieran O'Donnell: Are the funds ever represented?

Mr. David Hall: No, I have never met representatives from the funds at those meetings.

Senator Kieran O'Donnell: Never.

Mr. David Hall: No. The outsourcers charge €60 for a standard financial statement, SFS, and €10 for a phone call. There are various rates involved.

Senator Kieran O'Donnell: Do the intermediary companies ever say that they have to consult head office?

Mr. David Hall: Yes, that happens all the time.

Senator Kieran O'Donnell: What happens then?

Mr. David Hall: There is typically a delay, after which the intermediary returns and says "No".

Senator Kieran O'Donnell: Do the intermediaries say that the funds make the ultimate decisions?

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Mr. David Hall: If it fits within specific parameters given by the fund, the intermediary will agree there and then.

Senator Kieran O'Donnell: What discretion does the intermediary have?

Mr. David Hall: Zero discretion.

Senator Kieran O'Donnell: All control rests with the fund.

Mr. David Hall: We are negotiating with computers.

Senator Kieran O'Donnell: Ultimately, who makes the call on how a loan is treated?

Mr. David Hall: The fund makes the ultimate call. One never gets a straight answer from them.

Senator Kieran O'Donnell: Are those funds typically based in Ireland, the UK, the USA or elsewhere?

Mr. David Hall: I believe the majority of the funds are based here and have offices around the square. There is a beautiful office directly across from the Department of Finance - one of the nicest offices around - which houses one of the funds.

Senator Kieran O'Donnell: Has Mr. Hall ever thought, given his personality, of walking across the-----

Mr. David Hall: I have done that. I am now barred from the premises of two of the funds. I cannot go back. I was threatened with an injunction by two of them and was barred by two others. I cannot go back. I was in those lovely office I mentioned and I thought it was ironic that I was looking directly across at the Department of Finance from one of the most beautiful and expensive offices in the State.

Senator Kieran O'Donnell: Can Mr. Hall define "barred"? Is he legally barred?

Mr. David Hall: No. I was told to leave or else the Garda would be called. I am trying to-----

Senator Kieran O'Donnell: On what basis? If the loan is ultimately held by-----

Mr. David Hall: I am normally told that I am trespassing.

Senator Kieran O'Donnell: What is Mr. Burgess's experience?

Mr. Brendan Burgess: I looked at the Central Bank figures and I could not make any sense of them. The Central Bank said that only 9,200 loans have been sold to vulture funds, but I knew that Danske Bank alone had sold 10,000 mortgages to a vulture fund called Proteus in October. I wrote to the Central Bank about that, asking how that squared up and mentioning that we also know all about the Irish Nationwide loans, among others. The Central Bank replied that the 10,000 accounts I referred to are not legally owned by an unregulated loan owner but rather by another institution, with the beneficial ownership being held by an unregulated loan owner. If I had a Danske Bank loan-----

Senator Kieran O'Donnell: Is that a form of securitisation?

Mr. Brendan Burgess: I do not believe it is securitisation. There is a nominee company in

Dublin which is associated with one of the legal firms which is the legal owner of the loan-----

Mr. David Hall: It was a charity, but-----

Mr. Brendan Burgess: -----but the beneficial owner is Proteus, which is quite clearly a vulture fund. I mentioned that to Deputy Michael McGrath because his legislation will deal with that particular issue.

Senator Kieran O'Donnell: What is the state of knowledge of the regulator of the Central Bank? Does he know what each particular fund owns?

Mr. Brendan Burgess: The Central Bank seems to clearly know which company is the legal owner and which is the beneficial owner in the example I have given. It would be very difficult to get through to the funds. For example, if I wanted to have a meeting about the 10,000 Danske Bank customers whose loans were sold, I do not know who I would call. There is a separate firm doing the administration for those loans. It might be Proteus or the nominee company, which is the legal owner, or it could be the loan service administrator.

Senator Kieran O'Donnell: Who is regulating the vulture funds?

Dr. Martha O'Hagan-Luff: At the moment many of them are unregulated.

Senator Kieran O'Donnell: Can the witness define "unregulated"? Does that mean that a company can float around in the financial services market while being accountable to nobody?

Dr. Martha O'Hagan-Luff: A fund is accountable to its shareholders. Why would it want to be regulated? It is open only to qualified and accredited investors, which allows it to take more risk.

Senator Kieran O'Donnell: These companies are purchasing home loans owned by the people we represent, as Mr. Burgess stated earlier. Politicians and financial advisers have different roles. Our role is to represent ordinary people. Last week, I was approached by a lady who has an EBS mortgage. She is separated and fits the criteria Mr. Hall mentioned. She is absolutely petrified. A representative from EBS called to her home a number of days before Christmas. She rang me and was absolutely petrified. I rang a personal insolvency practitioner I know who had a contact in EBS and the dogs were called off. Mr. Burgess needs to understand our role. Many of us are accountants.

Mr. Brendan Burgess: I am not challenging that.

Senator Kieran O'Donnell: We must get the human aspect of this across. The witness said we are not asking enough technical questions. Ordinary people have no knowledge of this. Dr. O'Hagan-Luff said that some vulture funds are unregulated.

Dr. Martha O'Hagan-Luff: Yes.

Senator Kieran O'Donnell: Is it the case that, for all intents and purposes, they are accountable to nobody?

Dr. Martha O'Hagan-Luff: They are accountable to their investors, who invest heavily, so it is not-----

Senator Kieran O'Donnell: They are accountable to no public body or regulatory body.

Dr. Martha O'Hagan-Luff: The funds operating here would not come under the remit of the Central Bank in terms of consumer protection, which is why the Central Bank put forward legislation in 2015 to the effect that the loans have to be serviced by the credit servicing firm, which must be regulated by the Central Bank. The reason the Central Bank did that is because some funds will find a way to be regulated in Ireland. For example, Cerberus has come up with a solution which sees the ownership of the loans rest with regulated firms. However, other firms are being asked to change their business models. Some may withdraw bids on that basis and others may not. The reasoning behind it is-----

Senator Kieran O'Donnell: Could the Central Bank, if it wished, regulate these funds? Is there a legal mechanism whereby these funds could be regulated now?

Dr. Martha O'Hagan-Luff: That is an interesting question. The Central Bank could insist that the only way a firm could purchase these loans would be if it agreed to be regulated. This is a balancing act with regard to the risk of losing liquidity in the markets. Would these funds-----

Senator Kieran O'Donnell: Would that be retrospective? The existing funds-----

Dr. Martha O'Hagan-Luff: Whereby they would be allowed to buy the loans after the event?

Senator Kieran O'Donnell: No, I am asking whether any changes to the funds would apply to loans purchased already.

Dr. Martha O'Hagan-Luff: I do not believe so. It would be forward looking in that we would say the funds had to be regulated to buy these loans. The risk is that losing bidders would mean losing liquidity and the banks may get a lower price. I am not saying this is definitely the case because Cerberus clearly has found a way to make this work. I do not know whether it would be much of an issue for the other funds.

Senator Kieran O'Donnell: What is the way it has made it work? What has it done?

Dr. Martha O'Hagan-Luff: According to an article in a newspaper this morning, it bought an entity in Ireland-----

Senator Kieran O'Donnell: It is doing it through a regulated entity. That is to be welcomed.

Dr. Martha O'Hagan-Luff: It was announced in *The Irish Times* this morning that ownership is in a regulated entity. I just cannot remember the name of the company.

Senator Kieran O'Donnell: That is okay.

Dr. Martha O'Hagan-Luff: It found a workaround and it is possible that other funds would also find a workaround and, therefore, the ownership remains in a regulated entity.

Senator Kieran O'Donnell: That is to be welcomed.

Mr. David Hall: When that appeared in *The Irish Times* two weeks ago I spoke to Stepstone Mortgages, which was adamant it sold the loans and not its regulated entity.

Senator Kieran O'Donnell: Okay.

Mr. David Hall: It only sold the loans.

Senator Kieran O'Donnell: To Cerberus.

Mr. David Hall: To Cerberus.

Senator Kieran O'Donnell: Do we have-----

Mr. David Hall: Not the regulated entity.

Senator Kieran O'Donnell: In the opinion of Mr. Hall, do we have a situation here whereby what is being reported in the press may not actually be the position?

Mr. David Hall: Yes. I rang one of the directors who told me very clearly what the situation was. I tweeted at the time and stated that was not the case.

Senator Kieran O'Donnell: It bought-----

Mr. David Hall: It bought the loans and not the regulated entity.

Senator Kieran O'Donnell: It bought the assets of the entity, which were loans, rather than the entity itself.

Mr. David Hall: The announcement that it had bought a regulated entity might have been a bit premature. To go back to the Senator's original question-----

Senator Kieran O'Donnell: The committee might clarify this.

Mr. Brendan Burgess: If I understand it correctly, Stepstone Mortgages is a regulated entity. It bought loans sold by somebody else.

Mr. Brendan Burgess: No. Cerberus is reported to have bought Stepstone Mortgages.

Mr. Brendan Burgess: Stepstone Mortgage's loans?

Senator Kieran O'Donnell: No, it is reported to have bought Stepstone Mortgages itself.

Dr. Martha O'Hagan-Luff: I am not sure. It appeared in the business section of *The Irish Times* just this morning.

Mr. David Hall: It was actually announced two weeks ago.

Senator Kieran O'Donnell: It is significant.

Mr. David Hall: Prevention is better than cure. Thousands of families the length and breadth of the country are held in the clutches of banks at present. Yesterday, Permanent TSB pulled 6,800 loans from the sale, which is more than just the split loans, and this was welcome. We still have thousands of families' loans for sale via Ulster Bank. The combination of the Senator's question and that of Deputy McGrath is whether the vulture funds have solutions. Perhaps the Central Bank should be here asking this question. I saw the Governor here last week-----

Deputy Michael McGrath: He did not tell us.

Senator Kieran O'Donnell: He could not tell us.

Mr. David Hall: What was more concerning to me last week was when the Chairman asked the Governor about the Abhaile scheme and he did not know about it. It is deeply worrying

when the Governor of the Central Bank, who is in charge of consumer protection, does not know about a scheme. This was the most launched scheme in the history of the State. Abhaile was launched four times to be sure to be sure. It is very worrying when the Governor does not understand one of the most promoted schemes.

Senator Kieran O'Donnell: In the limited time I have, and it is relevant to the questions, I want to go back to the practicalities. Mr. Burgess stated 10,000 mortgage holders are paying nothing. Mr. Hall stated 31,500 mortgages are in long-term arrears, with 17,000 of them facing repossession. Mr. Burgess put the figure at 10,000, whereas Mr. Hall put the figure at 17,000. What is the correct figure? I will address my next question to Mr. Burgess. If we had forced repossessions of those 10,000 properties tomorrow, what would happen?

Mr. Brendan Burgess: The question really is whether we are saying it is okay for people not to pay their loans at all-----

Senator Kieran O'Donnell: No, that was not my question.

Mr. Brendan Burgess: -----for seven years with no sanctions.

Senator Kieran O'Donnell: Mr. Burgess's point is a valid one.

Mr. Brendan Burgess: Good.

Senator Kieran O'Donnell: I am asking him from a practical-----

Mr. Brendan Burgess: The Senator is asking whether that data are correct. It is unproven and let us be very clear. This would not hold up in any court. It is unproven.

Senator Kieran O'Donnell: I will come back on this point. What would Mr. Burgess do with the 10,000 families whose homes are repossessed?

Mr. Brendan Burgess: I will answer Senator O'Donnell in a slightly different way. I will tell him what I would do with the 10,000 houses they are vacating.

Senator Kieran O'Donnell: No.

Mr. Brendan Burgess: I would put people who are currently looking for accommodation into the 10,000 houses.

Senator Kieran O'Donnell: What about the 10,000 people?

Mr. Brendan Burgess: Some of those houses are actually empty so they would not be vacated. Other cases involve single people living in three-bedroomed houses who would find accommodation elsewhere. Some would qualify for social housing, although-----

Senator Kieran O'Donnell: Mr. Burgess's point is reasonable, but the point I am trying to make is that many of these people were encouraged to purchase homes. People forget very quickly that people were encouraged by the banks to purchase homes they could not afford. Many of these purchases were done through brokers who got people to buy homes they could not afford. I take the point with regard to a straight measure, but I will still ask the question of both witnesses. Is the 10,000 figure correct? The issue is one of finding a solution. We have an issue with the vulture funds and we have to deal with it, but we also have an issue with the tsunami of people who cannot afford their mortgages and people who are not paying their mortgages. How do we resolve that issue?

Chairman: I must ask the Senator to conclude. To whom is he addressing his questions?

Senator Kieran O'Donnell: Mr. Burgess and Mr. Hall.

Mr. Brendan Burgess: I am very clear that we as a society have a responsibility to help people if they cannot afford their accommodation and are living in appropriate accommodation, and we do this by giving them what I call the mortgage assistance payment. I am very clear on this. I say the figure is 10,000 but I might be completely wrong. It might be 3,000. It would be bizarre for it to be 3,000 but let us say it is 3,000. I want this group of people to vacate their houses. They have not paid anything. They can pay and they can rent somewhere else. I am actually not terribly concerned about them. They are the people who have paid nothing for seven years. I have been paying their mortgage and so has everybody else here. We have been paying their mortgage for the past seven years. I want that to stop.

Senator Kieran O'Donnell: There is a story behind many of those cases.

Mr. David Hall: That is the problem. This is not simply about numbers and bricks and mortars. This is about human beings and people with stories. Banks are complicit in what happened here. Let us be very clear, they are not innocent bystanders and the bastions of financial stability in this country. They have caused debt and ongoing torturous experiences the length and breadth of the country. We have this mortgage arrears resolution process rubbish and call in centres with 50 staff or 500 staff, but those 10,000 people are not 10,000 people, they are 40,000 people.

Senator Kieran O'Donnell: What could the Central Bank do in terms of altering the rules and restructuring so the banks would be able to do a lot of other restructuring to keep people in their homes?

Mr. David Hall: The Central Bank should allow the banks to do radical restructuring with regard to splits and compel and allow debt for equity swaps to enable the banks to protect their customers and leave them and their families in their homes. The banks should be radical and not prescriptive, as they have been until now, and retain ownership and control of the properties, while allowing people to stay in their homes amid a housing and homelessness crisis such as the State has never seen before. The numbers involved here blow the existing housing and homelessness crisis out of the water.

Senator Paddy Burke: I welcome the witnesses. Yesterday, Mr. Burgess found out that Pepper is overcharging by small amounts of money. When we found out first about the tracker mortgages it was supposed to be a very small number of cases but now we find it is almost 40,000 cases. How did Mr. Burgess find out about overcharging by Pepper? What does he think the extent of it will be? Is it greater than what is stated in the newspaper today? What is the story?

Mr. Brendan Burgess: I run a website, *askaboutmoney.com*, where people report their problems. People were stating they could not get a statement from Pepper. One gets a mortgage statement at the end of the year and people were saying they could not get one from Pepper. One person said that and others said they had the same problem. Three people stated they were having problems. Then I got a personal contact from somebody to tell me the problem was much more serious. It was not that the printer was not working but that the computer was not working and there was a problem. I gave the information to Charlie Weston, who contacted Pepper and it gave him a statement, admitting for the first time it was calculating its mortgages

incorrectly.

Back in 2003, I tabled a motion of no confidence in Michael Fingleton at the Irish Nationwide Building Society for the way he was running it. In 2005, I went with a file to the Central Bank to meet the director, the prudential director and the consumer director, and I showed them that Irish Nationwide was calculating repayments incorrectly. Nothing at all happened. Start Mortgages and Tanager both have a problem with the way they are calculating repayments.

Senator Paddy Burke: Are they overcharging as well?

Mr. Brendan Burgess: It is not overcharging; it is a slightly different issue. I think, from what we have learned from Pepper, it is not an actual overcharge but it is the way they calculate repayments, which is a slightly different thing. It just means I pay my mortgage quicker, but if I am not paying my mortgage, my arrears appear to be a lot higher than they are. There are quite a few issues which are highlighted on the website.

Senator Paddy Burke: Does Mr. Burgess think the Central Bank should have found this out?

Mr. David Hall: That is the point. It is the most fundamental question in the world. Where was the Central Bank in the article today in regard to Pepper? Mr. Burgess is right in regard to Start, which is a slightly more difficult case because the questions being asked are about engaging with customers. If the arrears a person is getting in the post every few months are exaggerated, the person is less inclined to engage because the mountain looks too high and too big to climb. Where was and where is the Central Bank? These are the regulated entities that the vulture funds are reliant upon.

Mr. Brendan Burgess: I understand the Pepper issue was discovered by Pepper, not by a customer, and that it was reported by it to the Central Bank. However, the Central Bank will never comment and tell us-----

Senator Paddy Burke: Mr. Burgess thinks the Central Bank knew about this.

Mr. Brendan Burgess: Yes, but probably only in the last few months. It knows there is an issue.

Senator Paddy Burke: The last few months. The Central Bank certainly did not bring it to the attention of this committee that there was more overcharging by financial institutions.

Mr. Brendan Burgess: No. The thing that really surprises me is that the Central Bank did not tell Pepper to write to all its customers and explain to them why it was not sending them a statement. It is very frustrating if a person rings their bank or electricity supplier to say, "Could I have a statement, please?", and it says "No", and the person gets the run-around and is not told why this is happening. If they told me that they think there might be an error-----

Senator Paddy Burke: I would not get the impression from Charlie Weston's article that the Central Bank knew about it. It seems to be surprised this was going on.

Mr. Brendan Burgess: I said that it was surprised when it heard. My understanding is that Pepper reported it to the Central Bank.

Mr. David Hall: Consumers in the State should have been comforted in some way, somewhere in the article, with a reference to the consumer protection division within the Central

Bank at least saying that it is watching this, that supervisors are investigating it and that it is reviewing it. To have no comment on it at all is unhelpful, and the Senator is right that it gave the impression it did not know. It would be far better to have a stronger statement from the consumer protection branch of the Central Bank - there is a massive conflict within the Central Bank - to at least say it is on top of this. That gives very little comfort.

Chairman: We will write to the Central Bank.

Senator Paddy Burke: Yes, we should write to the Central Bank in this regard. The Minister for Finance said some time ago that people who take over loans must abide by the terms of the original loan. Do the witnesses agree this is the case or is there a deviation from that?

Mr. Brendan Burgess: That is the legal position. If I have a contract with Danske Bank and that contract is taken over by Proteus, that contract remains unchanged. Given Danske Bank had cheap trackers, Proteus cannot turn around and say, "Brendan, we are changing your interest rate", because I will say, "No, read the contract. It says ECB plus 0.8%. I am paying my mortgage and I will continue paying my mortgage until the 20 years is up". There is nothing Proteus can do about that. If I am in arrears and I have an arrangement with my bank, AIB or Bank of Ireland will probably extend the arrangement after three years - typically, a split mortgage would be an example. However, the concern is that if it goes to a vulture fund, as Mr. Hall has pointed out, the vulture fund would not be as flexible in extending an arrangement. Usually, a contract is for three years and when that is up, as with a split mortgage, it could just be thrown out by the vulture fund.

Mr. David Hall: While it is against my religion to say this, banks are currently voluntarily restructuring loans although they are not required to do so. While we have made an assumption that banks will automatically continue to restructure loans, the Central Bank does not compel anybody to do this. No contract or mortgage contract in the State requires anybody to restructure a loan or to engage in any modification of the loan. The loan simply says, "If you default on this, we take the property", and that is it. This is a very important departure because when people say, "We will transfer loans and the contract remains the same", it is utterly meaningless, especially for this cohort of people who have breached their contract by not making mortgage payments because they cannot, and, therefore, it is irrelevant what is in the contract. The contract does not protect in any shape or form, nor does it bind the loan owner to do any level of restructuring or give any level of help.

Senator Paddy Burke: It is getting harder and harder for business people, housing developers and so on to get funding and, increasingly, they are going to funds, such as pension funds, for funding, rather than to the mainstream banks. Does Ms O'Hagan-Luff believe that, in the future, this type of funding will be the norm?

Dr. Martha O'Hagan-Luff: I do not know about it being the norm but it could grow in importance. For example, the US funding model is quite different from the model in Europe and there is more direct funding in the US rather than indirect funding via a bank. I imagine there could be more of what we might call direct funding for developers and so on, especially for the size of borrowing that they need, given the type of liquidity. One could argue that the risk is better placed in that way. Our economy needs the retail banking system. If we do not have a functioning banking system, this has very negative consequences for the economy. If we have our retail banking system holding very risky assets, that is not good for the economy as a whole because we need our retail banks to be safe, to be secure, to be boring and to not be overly risky. If the risk was placed elsewhere, and if loans to developers which are deemed riskier go

elsewhere, that could be a good thing, although I know the Senator was not asking whether it was a good or bad thing. It is a possibility and I would foresee there being more options going forward. If our retail banks are safer, I would say that is potentially a welcome development.

Senator Paddy Burke: Does that mean the riskier funding should be handled by pension funds and the like?

Dr. Martha O'Hagan-Luff: One would then be putting risk with informed investors. To take investment funds, there used to be three main asset classes - bonds, equity and cash - and there is now a fourth asset class of alternative investments, which means anything that is not plain, straight, investment-grade bonds, publicly traded equity or cash. Alternative investments could be investments in junk bonds or hedge funds, which are riskier assets outside of those main areas. The problem is one does not want to be marketing assets to investors who do not understand the risk they are taking on. We had this in the 1980s with derivatives and the mis-selling scandals. We want risky assets to be only marketed to those investors who have the expertise and know exactly what risk they are taking on in advance. That is the argument, namely, if there is this straight connection between informed institutional investors who are investing in risky assets, and it is part of a portfolio and they are well informed of the risk they are taking on, I would see that as a better situation than retail banks being saddled with risky assets which will have a negative effect.

Senator Paddy Burke: Then they should be regulated.

Dr. Martha O'Hagan-Luff: There could be regulated and unregulated funds; it is not that they would have to be unregulated in order to invest in riskier assets. The reason that some funds would remain unregulated is because it gives them more flexibility. For example, many funds would not be allowed to buy or sell derivatives or short-sell assets, and the other example is to invest in below investment-grade bonds. Some of those constraints might be from investors, so there is a spectrum of funds where some are safe and some are riskier. The less regulated a fund is, the fewer disclosure and reporting requirements it has. It is not whether they are regulated or not - that is a choice on a spectrum in respect of flexibility in regulation. If investors are happy for funds to remain unregulated - which gives more flexibility to invest in riskier assets - then that is a conversation, potentially, between the investor and the fund. It is up to the regulator in each jurisdiction as to how much regulation should be attached to different assets.

Senator Paddy Burke: Returning to what happened in the downturn - banks were at fault, Governments were at fault and people were probably at fault for investing - we saw many hard cases and many hard decisions had to be made. Some results were catastrophic for people. I wish to clarify what the witness is saying. I refer to new loans taken out by people now under different conditions to people who had loans prior to 2008 and 2010. People who got loans then saw their wages reduced and there was no market for people who bought to let. We have a different economy now. People buying a house now are buying at a lower price than those-----

Dr. Martha O'Hagan-Luff: At the peak, yes.

Senator Paddy Burke: -----at those times. The banks are more regulated and they have to have better capital ratios. It is a different scenario. Is it fair to say that people who took out loans in 2010, 2012 or 2014 should be treated differently from those taking out loans today?

Dr. Martha O'Hagan-Luff: To clarify, is Senator Burke saying that in 2006 people took out mortgages worth five times their salary with 100% loan-to-value ratio?

Senator Paddy Burke: Dr. O'Hagan-Luff is making the point that where banks give out a loan, they do not know if they are going to be able to repossess the house. A person taking out a loan today is doing so in different circumstances and a different scenario than what happened before the crash. Before the crash, wages were cut, interest rates - in some cases - went up, there was no market and no rental market. It was a different scenario. People are taking out a mortgage now in the full knowledge of what happened during the crash.

Dr. Martha O'Hagan-Luff: Yes, and people are aware that property prices can fall which is probably-----

Senator Paddy Burke: Should those people get a break compared to people taking out a mortgage now?

Dr. Martha O'Hagan-Luff: That is a valid question. We can think of person A in 2006 at five times his or her salary and a 100% loan-to-value mortgage, who believed there was not a huge risk of the property market falling, and then we can take person B, who is taking out a mortgage now at 70% loan-to-value and two and a half times his or her salary; those are completely different risk profiles.

Senator Paddy Burke: The person in 2006 saw his or her salary cut as well.

Dr. Martha O'Hagan-Luff: Does the Senator mean they bought after the crisis when prices had already fallen?

Senator Paddy Burke: Their salaries were reduced.

Dr. Martha O'Hagan-Luff: At the same time, property prices had taken a sharp downturn.

Senator Paddy Burke: Yes, that was the case.

Dr. Martha O'Hagan-Luff: Is the Senator referring to people who bought after the property crash? In respect of the scenarios, I understand that nowadays people are abiding by prudent Central Bank regulations around loan-to-value ratios.

Senator Paddy Burke: Yes, the person buying now does not expect his or her salary to be cut or the price of the house to go down.

Dr. Martha O'Hagan-Luff: Well-----

Senator Paddy Burke: What happened in those times was that a person's salary was cut and the price of the house went down. There was no market for anybody involved in buy-to-let then either.

Dr. Martha O'Hagan-Luff: When did those people first buy the property? Did they buy it at the peak?

Senator Paddy Burke: They could have bought it around 2000 or so.

Dr. Martha O'Hagan-Luff: Yes, they are the very hard luck people who bought a property when the regulations were too lax on affordability. They entered into negative equity and their income has been cut. For many people, that is a horrendous situation. They are stuck with a loan on an asset that is worth far less than what they paid for it in the first place. Senator Burke then referred to these new borrowers. I am not sure what his question is.

Senator Paddy Burke: Those people should get a break.

Dr. Martha O'Hagan-Luff: It is a balancing act between looking after existing borrowers and future borrowers. Regulation was extremely poor and banks extended lending to those they should not have, but people did also sign up to contracts. There are behavioural finance aspects when people see their neighbours doing something and then they think that it is okay. People signed up to mortgages that they should not have and banks gave mortgages they should not have. It is not an easy decision between looking after people who have horrendous mortgages they wish they had never signed up to versus the rules for new borrowers and the rates that they will get. I do not know if I have answered the Senator's question correctly.

Senator Paddy Burke: That is okay. Are there any other views on it?

Mr. David Hall: I agree with Senator Burke. There is a challenge. The argument is that the banks are better protected now. They have been given an additional insurance policy of 20% or 30% by regulation. The legal system in Ireland is, thankfully, sympathetic to those in difficulty. The unfortunate problem is that we are missing a cohort of data that would allow us to see the true extent of the people who currently simply cannot pay. There is, however, a difference with people who have now taken on loans. The rules are far stricter now than they ever were before when people were given loans.

As Senator Kieran O'Donnell mentioned earlier, brokers and everybody ran amok. It was like the Wild West. There were 100% and 110% mortgages and people were asked if they wanted money for their decking or legal fees. The whole thing was wild. That is a complicit responsibility on the banks now ten years later. They must never forget they exist because we bailed the banking sector out. Everyone forgets that while we did bail out a number of named institutions, by doing so we also protected the rest by there being an existing banking sector. It was chosen over citizens. There is a difference between then and now. I hope we do not see what we are currently seeing. Our objective is to prevent customers coming to us now - because anyone who does is not a true customer, they are in great difficulty.

Mr. Brendan Burgess: I will make one related point. People borrowed 100% of the value of the house and five times their income. The limits today are three and a half times income and 80% or 90% of the value. Yet the Central Bank requires the banks to price mortgages today based on our historic record. The Irish banks which lent at 80% loan-to-value and three and a half times income during the crisis experienced very low losses on those loans, yet the capital requirements for the Irish banks are based on this history. That is complete and utter nonsense. I reiterate that is why we are paying about €300 per head per month for mortgages because of silly capital requirements. That allows the banks to gouge us.

Chairman: I will return to Mr. Hall's opening statement. He said that this situation could lead to 17,000 families being evicted unless an alternative is arranged. In discussing this with the banks, I asked them about iCare, how they are interacting with it, whether it is a solution and are they co-operating. Will Mr. Hall give us an idea of the success -or otherwise - of iCare? Will he also address the point he made in his opening statement that a NAMA-type organisation should be established? Would that work on the same principle as a NAMA-type organisation?

Mr. David Hall: I watched the last time that Permanent TSB and AIB were before the committee. There was some discussion around loan sales and upcoming loan sales. It is fair to say that both Permanent TSB and AIB have engaged with iCare through mortgage-to-rent and also in reviewing - and I will be careful here - other alternatives to loan sales. Following the request

from the Chair at that last meeting, both banks have fully engaged in that process and it is on-going. The withdrawal yesterday of 6,800 loans from Permanent TSB's Project Glas is very welcome. Ulster Bank, unfortunately, now has the loans of thousands of families being sold for the second time. That is reprehensible and needs to be stopped. There was full engagement on the loan sales following the committee's last intervention to request alternatives be looked at. They are being reviewed.

In regard to iCare Housing's mortgage-to-rent product, both Permanent TSB and AIB have signed up to mortgage-to-rent solutions. They are both writing off the full residual debt that is left over. This is commercially sensitive but both have confirmed and signed up to discounted prices on the purchase of those mortgage-to-rent loans. Between them, there is a couple of hundred customers. To be fair to Permanent TSB, prior to Project Glas, in our discussion with the bank it agreed to remove 1,000 customers from Project Glas who might be eligible for a mortgage-to-rent solution and it has done so. It is fair to say, therefore, that both lenders have fully engaged with the spirit and the intent of mortgage-to-rent. That is important. People say things. AIB wrote to 3,000 customers facing repossession in January. A record breaking 1,250 replied. Permanent TSB has begun the same process in a joint letter of correspondence between ourselves and the bank encouraging people to engage and advertising the benefits of iCare and mortgage-to-rent solutions.

Chairman: What else needs to be done? I ask the question because Mr. Hall says 17,000 families may be evicted, and that the number is growing. I read in an article in one newspaper last weekend that €15 billion would be the total value of mortgages being sold to vulture funds by the banks because of the action of ACC Loan Management and others. What will save these families from repossession? Is iCare the only solution that is available? What other intervention is necessary by the State, for example?

Mr. David Hall: There are three levels of intervention. First, iCare and other approved housing bodies are doing the enhanced mortgage-to-rent scheme. Second, the bureaucracy needs to be removed because this is a crisis and an emergency for the families involved. Third, there needs to be a NAMA-type organisation for the mortgage holders.

The key part we have missed here is that the data we presented today of 600 cases show clearly the complexity of these individual cases, which Senator O'Donnell mentioned earlier. These are human beings. Humans are not perfect; they come with problems and difficulties. The key part of the problem is that the people involved do not have the ability to pay. Two of the examples I gave in the papers today show that, from the optics, it may appear as if someone can pay €600 but if we look at the next line we will see the person's age, and on the next line we will see there are additional complicating factors. These cases should be shelved inside a NAMA-type organisation that can keep these people in their homes on a debt-for-equity basis where they can, *pro rata*, own a percentage of the property on which they can make repayments or they should be housed in suitable, ordinary family homes. I am not talking about properties like Gorse Hill or €1 million homes that some seem to want to protect. Debt-for-equity solutions should be embedded in the insolvency legislation and the banks should get a kick in the backside to ensure they engage fully, honestly and openly with the insolvency regime. There is no other show in town because otherwise these people will lose their homes.

Chairman: Has Mr. Hall made that clear to the Department of Housing, Planning and Local Government and the Department of Finance? Has he engaged with officials from those two Departments?

Mr. David Hall: Every year I send a ceremonial sequence of letters highlighting the same concerns. Mr. Burgess mentioned an additional payment earlier. We also made an additional payment. We actually went a step further. In regard to one of Mr. Burgess's points, we also said that any person who appears before a court should have a personal insolvency practitioner complete what is called an affordability statement giving the registrar or the judge a clear understanding of the financial circumstances of the person before the court.

On dealing with the Department, I deal with banks, vulture funds and the political system and I still cannot deal properly with the Department of Housing, Planning and Local Government.

Chairman: Why?

Mr. David Hall: There is a preference on its part to outsource stuff to private sector and do things its way. We are new. Myself and eight directors under iCare Housing are volunteers who have come together to try to help people. Currently, we have 500 people, and hopefully more, who are eligible for a mortgage-to-rent solution. Unfortunately, the Department dictates how it wants to do it and it will only do things its way, even though we have all this agreed since last September when we launched. Unfortunately, I can foresee a significant "ding-dong" with the Department because in my view it is bullying us around, and that is what it does. I believe this will escalate and that more will come from it. Somebody said to me some time ago that now that we have got this resolved and will start helping people, the bureaucrats will pour the glue in on top of us. That is what has happened. The glue is in but I can tell the Chairman they will have great difficulty keeping it in because our job is to keep people who are eligible for social housing and mortgage-to-rent solutions in their homes.

Chairman: Does the 31,500 households Mr. Hall mentioned in his opening statement that cannot pay include the 17,000 households he mentioned at the end?

Mr. David Hall: Yes. There are 76,000 in total in arrears. The 31,500 figure refers to those in arrears for more than two years and, as Mr. Burgess mentioned earlier, there are others who are in arrears for more than five years. The standard financial statements have been requested by banks. They have them and they know who cannot pay. They have evaluated them and deemed them unsustainable.

Chairman: What is stopping the banks from drilling down into these loans?

Mr. David Hall: Nothing.

Chairman: They tell us they have hundreds of staff in each of the banks working on this yet none of the banks offers debt-for-equity solutions, which Mr. Hall mentioned.

Mr. David Hall: No. They will not do it.

Mr. Brendan Burgess: Can I explain why?

Chairman: Wait a second, Mr. Burgess.

Mr. David Hall: There are three categories. There are those who are eligible for social housing-----

Chairman: There is a phone somewhere on the desk and it is interfering with the recording system.

Mr. David Hall: Mine is turned off. There are those who are eligible for social housing who would be eligible for a mortgage-to-rent solution. Mortgage-to-rent should be a compulsory solution before any court in the State grants a repossession order. There are those who have engaged with the bank and given their financial information statement but who are unsustainable and do not have enough money to make payments. There are also those handful of messers who have been offered solutions and have declined those solutions. Those are the three categories this committee and the Central Bank should be able to provide for. There will be a significant number of people who have not engaged. We can only speculate on the reasons they have not engaged but our evidence clearly shows an inability to pay. That is fundamentally the underlying issue here. This is not about vulture funds. It is about inability to pay and people who will lose their homes.

Chairman: Does Mr. Burgess want to come in?

Mr. Brendan Burgess: I will make a few points. I will explain how mortgage-to-rent schemes work. I was involved in a radio debate with one of the commercial companies that was getting involved in mortgage-to-rent solutions and I could not understand why it would get involved. We are talking about somebody who is not paying a mortgage. We will buy the house from the mortgage holder who will pay us the rent instead. The point being missed, however, is that if somebody does not pay a mortgage and he or she qualifies for a mortgage-to-rent scheme, a fund, local authority or housing association will buy the house and the taxpayer will rent it. The taxpayer, therefore, is actually the person who is underwriting mortgage-to-rent solutions. It is not the former borrower. The local authority will pay the rent directly to the fund which has bought the house.

Mr. David Hall: Can I make a very important point, Chairman?

Mr. Brendan Burgess: Hang on a second.

Mr. David Hall: The approved housing bodies are not-for-profit regulated entities that hold these properties. The Department of Housing, Planning and Local Government is encouraging a handsome leasing arrangement that will allow-----

Mr. Brendan Burgess: Can I continue my explanation?

Mr. David Hall: -----funds to own those properties at the end. They are being given a lovely freebie. The people affected are eligible for social housing. That is the part Mr. Burgess has missed. The State would be paying for their accommodation anyway, and this is the cheapest form of payment.

Mr. Brendan Burgess: Chairman, can I continue my explanation, please?

Chairman: Yes.

Mr. Brendan Burgess: What happens is that the taxpayer will pay for that. Most of us would agree that the taxpayer should provide social housing. I do not believe anyone is in disagreement on that, but what about the 100,000 people or whatever the number already on the social housing list? Under mortgage-to-rent schemes, not only do people get a house but they get a house of their choice and skip the housing queue. I believe there is a fairness issue with mortgage-to-rent schemes. The alternative I am suggesting, namely, the mortgage assistance payment, could be implemented for many more people and it could be done immediately. There would not be a change of ownership of the house. The borrower retains ownership of

the house and it is much cheaper for the State to pay the interest than to pay the rent. In addition, if the borrower's circumstances improve, he or she will no longer need the mortgage assistance payment. Since 1 April, the United Kingdom's equivalent to my proposed mortgage assistance payment has been provided not as a welfare payment but as a loan. I suggested this eight or nine years ago when we had the mortgage interest supplement, but my suggestion was dismissed out of hand. The mortgage interest supplement in the UK is now provided not as a welfare payment but as a loan. They will actually pay the mortgage on behalf of the people who would qualify for social housing, and who would qualify for rent assistance. They pay the mortgage on their behalf and it becomes a second mortgage on their home, so if they die or sell the house in 20 years, the primary mortgage to AIB or whatever is paid off. If there is equity left over, it pays off the mortgage.

This is so clearly obvious that I just cannot see why people do not call for mortgage-to-rent to be scrapped. We are creating all these extra housing bodies, administration and legal problems. It is just not necessary.

Senator Kieran O'Donnell: I had an example of that recently. If one looks at the problem based just on accounting and financial principles, that is fine. A person approached me recently looking to avail of the mortgage-to-rent scheme. They were under phenomenal pressure to keep up the mortgage repayments, any mortgage repayments. They had young children. They were putting money aside to pay the mortgage, which should have been spent on other needs. I refer to the human aspect of this problem. The children were in school in local schools. The problem is this. If Mr. Burgess bases his model on scrapping the mortgage-to-rent scheme, it will require this family to get social housing in the same area. In a lot of cases-----

Mr. Brendan Burgess: Sorry, no. In that case, mortgage assistance payment is appropriate.

Senator Kieran O'Donnell: No, they have gone past that.

Mr. Brendan Burgess: Why?

Senator Kieran O'Donnell: This goes to the point of what Mr. David Hall has said. In some cases, they have been making mortgage repayments which they clearly could not afford.

Mr. Brendan Burgess: Then the State pays them.

Senator Kieran O'Donnell: The human aspect here is what happens if we put those people out of that house. Their children go to school locally. The council probably will not have property. They will have to go on the list. The human dimension of it is that we would create a lot more problems than solutions. The mechanism by which the mortgage-to-rent scheme is funded probably needs to be looked at. However, the basic structure of the mortgage-to-rent scheme is not a bad principle.

Mr. Brendan Burgess: It is a terrible principle. I am calling for the same solution as Senator O'Donnell. That family is in a house appropriate to their needs and cannot afford their mortgage repayments. We will pay the mortgage on their behalf, so they stay in their house.

Mr. David Hall: As such, the taxpayer pays the bank instead of paying the approved housing body. The bankers are smiling all the way to the bank again. Utter rubbish. The mortgage-to-rent scheme was a fantastic idea in 2010. It evolved in 2012 and has not been a success since then. It was a great idea. The then Minister for Housing, Planning, Community and Local Government, Deputy Simon Coveney, and his successor, Deputy Eoghan Murphy, fully engaged

with it. Deputy Coveney made some changes, and Deputy Murphy has been very helpful to us in relation to it. We are stuck in a massive quagmire. It is very important to note that there are probably 5,000 families eligible for this. The vulture funds, our arch-enemies, are fully-----

(Interruptions).

Mr. David Hall: -----participating in mortgage-to-rent. They are writing off the debt. They are fully engaged and willing to sell the houses and do deals on the houses to do it. To come back to the Senator's point, if people are eligible to restructure their loan with the bank, they will offer them the chance to restructure. If a borrower cannot restructure his or her loan and cannot pay open-market value, which is a personal insolvency arrangement level, the next test is whether the loan can be sold to a charity. This would have the same price a vulture fund would take it on for. If the answer to that question is "No", the borrower is in trouble. That is the position of the 12,000. These are people who have lost jobs and are too old. Age and health are not on their side.

Those properties could be taken over as a form of National Asset Management Agency, NAMA, leaving the people housed, and the loans worked through one by one. Miraculously, this happened for the developers. They all stayed in their houses and they actually got a job out of it. This is not brain surgery. This is humane.

There are posters outside here that say "Compassion". Some of those posters would need to fall on some people's heads for them to understand. This is about the individual circumstances of people who have been tortured for years. This is not simply mathematics and buildings. Mortgage-to-rent has and will continue to save and change lives, and protect dignity. Dignity is a massive word here. It means those families do not have to go through a repossession court, where the local authority, the bank and ourselves verify they have no income. They have nothing to pay. All we are doing is torturing them unnecessarily.

Chairman: Essentially, the banks do not drill down hard enough and strongly enough to find a resolution. They do not fully deal with the range of possibilities of resolution and options that are available.

Mr. David Hall: They do for the solutions. They have. They have prescribed solutions that they have taken from the Central Bank, and the Central Bank has allowed them to do it. They do not do anything radical additionally. They do not do anything creative to reflect someone's set of circumstances. If a borrower cannot fit into their model, they simply repossess the house. However, they have now decided that it is less attractive to repossess individual houses than it is to sell to vulture funds. They have made the calculated gamble of selling to the funds. The funds provide zero solutions.

There are two different categories of people that are very important here. Firstly, there are people who have not engaged, for various reasons. I believe that most cannot pay, have sought advice and just do not go forward. However, the situation is worse than that. There are thousands of people who have engaged, and despite the bank lovers, banks and the Central Bank castigating them, they have actually provided the information. The data exists within the banks' records that proves they cannot pay. How many of them are there? That is the No. 1 question. Why are they in court if they cannot pay? The bank has verified they cannot pay and they do not meet any of its solutions. That is where our mini-NAMA comes in. They will lose their homes. There is absolutely nothing surer in the world, even if they stay with a bank. Forget

the vulture funds. If all the vulture funds were banned in the morning, they will still lose their homes. That is the problem.

Chairman: With 130,000 people on housing lists throughout the country, this would add a further 17,000. That would create social chaos. That is the social cost.

Mr. Brendan Burgess: This would not involve knocking down the houses. When a house is repossessed, it becomes available again.

Chairman: Yes, but there is a churn.

Mr. Brendan Burgess: Yes, but the Chairman added 17,000 to the 130,000 people on housing lists. There would be 130,000 plus 17,000 minus 17,000. We would end up with 130,000.

Chairman: The point is that it is social chaos for 17,000 families.

Mr. David Hall: It is economic chaos. This is where Mr. Burgess-----

Mr. Brendan Burgess: Do not mind Mr. Hall's 17,000. He has been talking about that for years.

Mr. David Hall: This is where the economic issue comes in, whereby it is cheaper to do something. Those people then present themselves to the local authority. They then present themselves for housing assistance payment, which is more expensive than mortgage-to-rent. They present themselves for emergency accommodation. Forget the human part. Just treat them like pieces of meat and dump them out there. Who cares? That becomes way more expensive to do. The question here is-----

Chairman: We should sort it before it happens.

Mr. David Hall: The point is that evidence of those who have engaged exists. That exists within the records of all of the lenders and the funds. People who have given standard financial statements, SFS. My fear is that banks are deciding to sell this stuff to vulture funds because it is less of a hit to take publicly than having Mary, Joe and their three kids in their pyjamas at the side of the street in the three-bedroom semi-detached house down in Mullingar. That is where public chaos will arise.

Chairman: Which comes to the question for Mr. Burgess. This 10,000 figure is actually his analysis. It is not written down somewhere it can be verified.

Mr. Brendan Burgess: I ask the committee to look at the figures. I did go to a lot of difficulty to put them out there for the committee. There are 24,000 mortgages that have been in arrears in excess of two years. There are 40,000 in excess of 90 days' arrears. There are 10,000 who are in five years' arrears. I estimate that the figure is 10,000. I go down to the courts and I see the people there who are paying nothing, and who are chancing their arm.

Chairman: I want to challenge Mr. Burgess on the example he gave us this morning, which is not a typical example. I too go down to the courts. What I see when I go down to the registered courts is a stack of legal individuals on one side, mainly with the banks, and then some lay litigant or lowly solicitor on the other side trying to do battle. In an awful lot of those cases, they tell me, and I have heard this said to the registrar, that they have tried their damndest to do business with the bank and it has refused to engage. There is a significant number in that category. Most of the adjournments that I see are adjournments asked for by the banks, because

they are trying to kick the can down the road to defeat the individual, to beat them up further and to leave them without any dignity. That is what I have seen in the banks. That is my answer to the typical, or not-so-typical case that Mr. Burgess put forward.

I have engaged with the vulture funds, and I have engaged with their front-of-house regulated agents.

The way they treat people is horrendous. The witnesses referred to ten principles, I do not know what country was mentioned ----

Dr. Martha O'Hagan-Luff: The Netherlands.

Chairman: It is similar to what is supposed to happen here, where the rights travel with the loan. That does not happen. I have seen cases where the regulated entity told clients to write to it and ask it for the information. I have dealt with clients who did that. One, with whom I am directly involved, did so last Christmas and has received no response whatever. This is done in the hope that the individual will simply break down in terms of either health or the willpower to pursue it. That is what they are dealing with.

Mr. Brendan Burgess: For years, I have been calling on the Central Bank to define what is a sustainable mortgage, so that a person who is engaging and paying something, can go into the registrar's court, point to the Central Bank's definition of a sustainable mortgage and state they are fulfilling that level of repayment. There would be no court case. I genuinely want to see those people protected.

Chairman: That is fine, but in some of his commentary, Mr. Burgess is saying that these people are not engaging. I am telling him that that is not true.

Mr. Brendan Burgess: There are two different cohorts. There are people who are not engaging and who are paying nothing and there are people who are doing their best and are being frustrated by the banks. Dealing with the banks is a very frustrating experience for the borrowers who are trying. It is very clear to see in the registrar's court, particularly in Dublin. The registrar has no patience with the messing from banks. She orders the banks to, say, have a meeting with a client within two weeks and come up with a solution. I am fully behind the people who are doing their best. They should not be in the court and if the banks were clever, they would not be in the court as the banks would be focusing on the people to whom I refer.

Chairman: That brings us to the point that David Hall made earlier. Those people who simply do not have the funds to make payments have to go somewhere.

Mr. Brendan Burgess: Is that a mortgage assistance payment? That we should pay their mortgage?

Chairman: We cannot just tell people that we are going to repossess their home, and good luck. As some members said earlier, many of those people were led into this debt. They went in for a loan of €80,000 and came out with €120,000, a loan for a car and maybe a loan for a second car. The banks are as much to blame for all of this as anybody else. We bailed out the banks. I do not believe that moral hazard enters into it at all because people are trying to get out of this, whether through using the services of David Hall or somebody else. I do not like the commentary around the vulture funds and tolerating them. They had 125 meetings with the Department of Finance over three years, according to this committee's report - I am conscious that Mr. John Moran is in the Gallery - but they did have these meetings. There seems to be an

awful amount of sympathy in Government circles for minding the banks but not minding the people. The point has come where we have to mind the people.

Mr. Brendan Burgess: We have a code of conduct on mortgage arrears and I do not think anything remotely similar to it exists elsewhere. We have got the most extraordinary personal insolvency legislation which allows the judge to impose a capital write-down on a borrower. I think it is unprecedented; it might exist in Norway in a handful of cases. If the Chairman was a borrower in difficulty and decided to go for a personal insolvency arrangement, PIA, within three or four months he could have his mortgage written down to the current value of the house.

Chairman: And if it was vetoed by the bank?

Mr. Brendan Burgess: If it was vetoed by the bank, the Chairman could go in and get the judge to overrule the veto. A bank which is trying to get payment from a borrower that it knows has the money but is refusing to pay, it will be four to six years before it is possible to get anywhere with that borrower through the courts system. I want to see a balanced system, balanced in favour of the borrower. We have a completely lopsided system whereby borrowers who do not want to pay can get away with it for years.

Mr. David Hall: I will not labour the point but we are dealing with speculation around people's circumstances and their not being able to pay versus the evidence.

Returning to the Abhaile scheme, it had 4,277 engagements of individual mortgages, which related to 7,246 people. That is only in the last 18 months. That is a very big number of people willing and wanting to engage with the Abhaile scheme. That is the number of vouchers that were given out. I will outline where the problem lies. Speaking on the insolvency statistics for the first quarter of 2018, Mr. Burgess gave the impression that this process is some sort of *à la carte*, automatic thing where someone walks in, grabs a PIA and walks out the door again. That is not what happens. There were 870 applications, 409 protective certificates and 219 PIAs. If everyone was to go through an insolvency arrangement, it would take 38 years. If the committee asked the personal insolvency practitioners who are engaging in the Abhaile scheme, I guarantee they would say it is a massive number of people to engage belatedly in the process, to re-engage with the scheme. The personal insolvency practitioners can see that no one has money. Money is the problem. It is not questions of intent or will or that it is a moral issue, and that they do not want to pay or they want to screw their neighbour or get a freebie. No one wants to be in this situation. It is delusional to think for a minute that a couple who had lost their job, livelihood and health is sitting at home wanting to take advantage of the system, they just have no money. The evidence is very clear. If one looks at the insolvency figures: 870 applied, 409 progressed to a protective certificate but only 219 went on to a personal insolvency arrangement and 40% were rejected by banks, the alleged engagers that are now accusing debtors of not engaging. That is 40% in a prescribed legal process that was introduced by these Houses, where the banks turned around and said "No". The evidence is abundantly clear. The problem is that we are making a serious, dangerous mistake if we think that people sitting at home who cannot pay simply do not want to pay. It is a very serious and dangerous assumption to make and one on which we will perish if we do not engage with this now.

Chairman: I refer to the vulture funds and their attendance here at committees. The banks are hard-nosed commercial entities, which are difficult to deal with. The vulture funds are worse. I do not think they have any morals whatever. They are cold individuals to deal with. They have no compassion or humanity. They want to kick the last shilling out of people and they will beat up the citizen in order to get that last shilling. Bearing in mind that type of

mentality and that kind of devotion to profit and making money, and the hard edge that they have, I cannot accept Mr. Burgess's analysis that maybe the reason they do not come before the committee is because they might be asked a hard question or that there might be a bit of grandstanding or that members might take shots at them. I do not accept that. They are tough individuals. They have stood up to Governments and have manipulated Governments through their engagements with Departments of Finance and to suggest they might not come in here because we would be difficult with them is hard to take.

Mr. Brendan Burgess: Senator Conway-Walsh asked my opinion and I gave it. I would like to see them in here. I would like the Central Bank to collect the data from them. I had not realised that the committee had asked them how many mortgages they had rescheduled since they took over the mortgage. I would love to see those data. I fully agree with the Chairman that I would like to see them in here. Has the committee sent them a questionnaire and asked them?

Chairman: No, we will take up Mr. Burgess's suggestion on that. However, it is very difficult for anyone commenting, or for us as public representatives, to get a feel for what is happening in the economy, in society or with the borrowers without having this wide ranging information on vulture funds and the entities that represent them. We have to get to that point. The feeling on this committee is so strong on that, that we are preparing a motion for debate before the House on the matter. Our intention and commitment to getting that type of transparency is such that we will not let it go. They will have to come before the committees, they have to be answerable and transparent. It was stated earlier that the conditions and protections of the loan travel with it; they do not. I had an exchange with the Governor of the Central Bank, Professor Lane, on the most recent occasion he came before the committee. For him to say what was said about the situation was totally naïve. One is just not informed if that is the view one has. I am not saying that about Mr. Burgess.

Mr. Brendan Burgess: The legal position remains the same but the practical position is completely different because, as Mr. Hall pointed out, no bank is obliged to restructure any loan under Irish law.

Chairman: In addition, one is asking a person who has been beaten up by the bank over a long number of years to find the energy to confront the vulture fund or its agents. That is a David-and-Goliath battle that is not won by the throw of a stone, I am afraid. It is harrowing to listen to the stories.

I have another point I wish to take up with the witnesses. The four individuals who appeared before this committee and told their stories were asked the hard questions. How hard does Mr. Burgess think it was for them to appear before a committee and pour their family circumstances out before the nation in order that others might be saved from experiencing the difficulties they experienced? Without their testimony, the Central Bank would still be turning a blind eye.

Mr. Brendan Burgess: When I heard the committee was having those hearings, I contacted it and identified a person from whom it needed to hear. The committee brought her in. I am familiar with one of the other cases, that of Ms Helen Grogan. She and I went to the Permanent TSB AGM yesterday and we articulated her case very strongly and directly. So did everybody else. She made a great presentation. I have to be careful about what I say. The committee was saying to people it was terrible that they lost their tracker mortgages and it asked them to tell members about the impact. The committee did not ask whether there were any other issues in their lives at the time and whether they had other financial difficulties.

Mr. David Hall: Who cares? The banks stole trackers from them.

Chairman: We did not have to ask them. They poured their details out before this committee. Regardless of what happened, no bank was entitled to treat them in the way they were treated.

Mr. Brendan Burgess: It is being said that the banks stole trackers from individuals. Many people had their trackers taken from them. I have been campaigning on this issue more than anyone else for the past ten years. The minute the issue of trackers being taken from people who were entitled to them arose, I highlighted it. I went to the Permanent TSB AGM and highlighted a cohort. I went to the AIB AGM and spoke about a cohort there. It does not mean that everyone who says he had a tracker, that he does not have it now and that his life has been destroyed has had his life destroyed by the loss of the tracker or that he should not have lost the tracker. I am saying-----

Chairman: I would dispute that. I commend Mr. Burgess on the work he is doing but I simply say to him that the number of people who have been robbed of their trackers represents one big scandal that the country faces. The manner in which the banks dealt with them is shocking. That continues to be the case. If it were not for this committee, the four people who appeared before it and the work the delegates and others are doing in the area, the Central Bank would almost have ignored the matter. People should remember-----

Mr. Brendan Burgess: The committee provided an impetus but the Central Bank-----

Chairman: At the first meeting we had, the Central Bank told us there were 10,000 tracker mortgages involved. There are now 38,000 or so and we still not have come to the end of it.

Mr. David Hall: History will reveal the position of the four people who presented themselves before this committee. I deal with people every day. Journalists ring every day looking for individuals to tell their stories on a host of issues. It is next to impossible to get people to speak about their circumstances because of ludicrous comments, challenges and suggestions concerning their own behaviour and circumstances in life. History will dictate. What happened on the day the four people appeared before this committee and the work the committee did thereafter transformed the approach to the tracker scandal. Over 10,000 people were correctly included in the scheme thereafter. I commend the work and the presentation of the individuals. It is not easy for anybody to appear before an Oireachtas committee, let alone speak about his or her personal circumstances live at a committee and take questions for which he or she may not be prepared. Considerable support should be given to the people in question and they should be commended on the work they did on behalf of everybody else. They blew up the tracker scandal at the time because of what they said.

I strongly disagree with Mr. Burgess on the effect this has on people. Unless people are in the circumstances in question or see the eyes of someone who has been treated in such a way and who has had to make life-changing decisions because of a financial crash and who has faced a major personal challenge affecting his life, they will never understand. They should not even try to claim they understand because they do not.

Senator Kieran O'Donnell: This is about non-disclosure. If the banks are undercharging customers - I have seen this over the years - they pursue them with a vengeance in order to get the correct rate back. They do not ask whether the lower rate actually saved the individual. They just take the money back. I have seen this happen to countless clients over the years. Just

because there was a cohort with tracker mortgages who were not impacted upon to a monumental degree does not get away from the point that they were on the incorrect rate. Some people were driven out of their homes.

Mr. Brendan Burgess: That is not the point I am making. The issue of the four people who were before the committee was raised. The point I am making is that somebody stating publicly that his or her life was destroyed by the loss of a tracker mortgage and that it was unfair points to two possibilities. First, it might not have been unfair in the first place. Second, the person's life might have been destroyed but not by the loss of the tracker.

Senator Kieran O'Donnell: They were at the end of their tethers when they came before us.

Mr. David Hall: It is absolutely disgraceful.

Mr. Brendan Burgess: I watched the proceedings from start to finish. The committee did not ask the four people about the conditions.

Mr. David Hall: They were not in court. This was not a court. Padraic Kissane has the utmost reputation as an eminent professional and he has driven this. They are his clients. This is absolutely bizarre carry-on.

Mr. Brendan Burgess: The members did not ask about the circumstances. I told the committee that I am familiar with two of the cases in detail.

Chairman: Before Mr. Burgess states that as a fact - as he has stated the figure of 10,000 as a fact - he should note that they were asked the hard questions. Perhaps Mr. Burgess did not want to hear it but the fact of the matter is that, on the day the individuals were here, the hard questions almost did not have to be asked because they so wanted to tell their stories that they put everything out there. The question is whether they were dealt with and whether the banks acknowledged afterwards that they were wrong. Yes, they did. On other occasions when evidence was provided by this committee to the banks involved in respect of the tracker issue, it was proven that the banks were not doing their jobs. They were ignoring the plight of people. The evidence given to this committee, in writing and by the four people, was so exceptional that it told all the hard facts about how lives can be destroyed by banks that could not care less for people. That was the issue that day.

Mr. Brendan Burgess: The banks acknowledged that they did wrong in one particular case and have attempted to make recompense. One of individuals involved, the one I know best, is Ms Helen Grogan. She was here and told her story. The banks have admitted no wrong in that case. I was at the Permanent TSB AGM telling the bank publicly that its treatment of Ms Grogan and her cohort of borrowers is absolutely wrong. It might be legally correct but it is totally unfair. That is one of the campaigns on which I am working. The banks have not acknowledged any wrongdoing in her case.

Mr. David Hall: If one gets a letter from one's bank putting one into a tracker redress scheme and giving one money, it has admitted it was wrong. Let us be very clear about that. It does not comment on a case-by-case basis. With regard to the four people who appeared before the committee, it is absolutely outrageous that this conversation is being continued here. Those individuals have financial recompense from the banks, which is an admission that the banks have done wrong. It is simple.

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Chairman: That is well put. Could Dr. O'Hagan-Luff give us details on the ten golden principles she spoke about?

Dr. Martha O'Hagan-Luff: Is it acceptable to do so after the meeting?

Chairman: Yes.

Dr. Martha O'Hagan-Luff: I can look them up and let the members know about them. It is certainly interesting to find out what is happening internationally.

Chairman: I refer to how they operate and how they travel.

Dr. Martha O'Hagan-Luff: Sure.

Chairman: Since there are no more questions, we can declare the meeting adjourned. I thank the delegates very much for attending.

The joint committee adjourned at 1.30 p.m. until 10 a.m. on Thursday, 24 May 2018.