Tithe an Oireachtais
Houses of the Oireachtas

TUARASCÁIL ón gComhchoiste Fiosrúcháin i dtaobh na Géarchéime Baincéireachta

An tAcht um Thithe an Oireachtais
(Fiosrúcháin, Pribhléidí agus Nósanna Imeachta), 2013

REPORT of the Joint Committee of Inquiry into the Banking Crisis

Houses of the Oireachtas
(Inquiries, Privileges and Procedures) Act, 2013

Volume 1: Report
Volume 2: Inquiry Framework
Volume 3: Evidence

January 2016

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Appendices

1. Introduction by the Chairman of the Joint Committee

The report of the Banking Inquiry published as Volume 1 is the Joint Committee's principal legacy. However there is another part to that legacy. As the first Joint Committee to plan, commence and successfully complete an Inquiry under Part 2 of the Houses of the Oireachtas (Inquiries, Privileges and Procedures) Act 2013 ("the 2013 Act"), we have road-tested this complex legislation. And as the first such Inquiry, we faced the dual challenge of designing the methodology to conduct the Inquiry in real time while also running the Inquiry.

Volume 2 is intended to provide a useful reference manual for future inquiries, by telling the story of how the inquiry was planned and delivered. It includes the detailed Operating Model agreed by the Joint Committee to support the effective running of the Banking Inquiry to very strict timescales while also respecting the constitutional and statutory framework within which it operated.

Volume 2 makes a number of recommendations for changes to legislation and for the running of future inquiries. These recommendations draw on the Joint Committee's experience and form part of the Joint Committee's overall recommendations.

Volume 2 also outlines in detail the use of the Joint Committee's statutory powers and broadly analyses the level of co-operation with the inquiry, both at institutional participant and individual witness level.

Given the unique challenges which the Banking Inquiry faced, the Joint Committee had to prioritise its approach having regard to the limited time and staff resources available to it. The Joint Committee decided to compel documents and witnesses in order to facilitate planning and safeguard witness rights. The Joint Committee had limited capacity to conduct a detailed exercise to assess compliance against its directions to provide documents to the Inquiry. While not ideal, the Joint Committee does not believe that a lack of documentation prejudiced its ability to carry out an effective inquiry.

There was (with one exception) full compliance with the Joint Committee's directions to attend public hearings and this is welcomed by the Joint Committee. The failure of David Drumm to attend is dealt with in detail in Chapter 7.

Again, the Joint Committee received a good level of co-operation on a voluntary basis from many institutional participants and individual witnesses. However, the Joint Committee remains critical of the failure of the ECB in particular, to co-operate with the Inquiry, while acknowledging that there was no legal obligation on it to do so. The attitude of the ECB stands in stark contrast to the full co-operation and engagement offered by the European Commission and the IMF. The Joint Committee considers that it is in the public interest to give details of its engagement with the ECB as part of its final report, and has done so in Volume 2.

In the current economic climate, parliamentary inquiries must be seen to be cost-effective and time-efficient in comparison with other forms of inquiry. This Volume reports on the final cost of the Inquiry, in keeping with the Joint Committee's commitment to transparency of running costs from the outset.

The Banking Inquiry is the first of its type and has been challenging and complex from a legal, process and timing perspective. I believe that we have demonstrated that the Houses of the Oireachtas can carry out fair, balanced and cost-effective inquiries. I hope that our work will pave the way for future parliamentary inquiries in the public interest.

Ciarán Lynch, T.D,

Chairman of the Joint Committee.

2. Summary of Recommendations

The Joint Committee recommends that the 2013 Act should be reviewed and amended in the light of the Banking Inquiry, to take account of the recommendations below, before consideration is given to the establishment of another Inquiry under the Act.

No.	Recommendation	Para ref
1	The 2013 Act should be amended to create a specific type of "inquire, record, report" inquiry, with power to make findings in relation to systems, practices, procedures or policy only. While this type of inquiry would have no power to make findings of fact in relation to a person who was not a member of the Houses, it would be subject to less onerous obligations in terms of fair procedures and consultation as a result.	**4.18**
2	The recommended timescale for a parliamentary inquiry into any matter of significant public interest is 24 months dating from the agreement by the Houses of the Relevant Proposal and Terms of Reference. (The comparator timescale for the Banking Inquiry was 14 months).	**5.9**
3	Identify and address any statutory or other impediments to Oireachtas Committees compelling documents.	**5.15**
4	Require the DPP to prepare general guidelines for Inquiry Committees on avoiding prejudice to criminal trials and investigations.	**5.24**
5	Agree a protocol for engagement between the DPP and the Oireachtas to manage the risk of prejudice arising in criminal trials while also respecting the separate role of the Oireachtas to conduct inquiries, to include a provision for imparting certain information to the Joint Committee Chairman only on a confidential basis.	**5.25**
6	Amend section 72(2) of the 2013 Act to reduce the minimum fourteen day period for the DPP to furnish a declaration to a more reasonable minimum.	**5.26**
7	In light of the Protected Disclosures Act 2014, consider the issue of how members of both Houses deal with allegations brought to their attention, including guidance in relation to best practice for dealing with any such disclosures to ensure an appropriate balance between the right of access to a public representative and the right of those subjected to allegations to be fairly treated.	**5.30, 5.31**
8	Include appropriate transitional provisions in the 2013 Act to mitigate the impact of Dáil dissolution on the work of inquiries.	**5.34**
9	Improve the workability of the interim reporting provisions in the 2013 Act, in particular the potential to lighten the consultation process for interim reports.	**5.34**
10	Consider a joint approach by CPPs of both Houses to the evaluation of Relevant Proposals for the conduct of inquiries by Joint Committees.	**6.9**
11	Consider ways for the CPPs to engage and dialogue with a requesting Committee as part of the process of CPP evaluation.	**6.12**
12	Adapt the Banking Inquiry Operating Model and Memorandum of Procedures for use by future inquiries.	**6.24**

No.	Recommendation	Para ref
13	Review the 2013 Act to provide for the conduct of the preliminary investigation phase of inquiries by expert staff and delegation of powers to staff.	**6.34**
14	Consider the establishment of an Oireachtas Investigations Unit to support Committees in developing inquiry proposals.	**6.36**
15	Limit membership of future Part 2 Joint Committees of both Houses to a maximum of seven members.	**6.55**
16	Introduce comprehensive and appropriate sanctions for unauthorised disclosure of confidential material, to cover members of the Houses, and the staff of members and of Committees.	**6.61**
17	Provide specifically that the section 38 and 39 consultation processes with affected parties can be run concurrently under the 2013 Act.	**6.66**
18	Amend the 2013 Act and Standing Orders to remove the requirement for Dáil and Seanad approval to publish an Inquiry report.	**6.70**
19	With the exception of Central Bank material under s33AK, retain unpublished Banking Inquiry material indefinitely in a secure archive under the custody of the Clerks of both Houses.	**6.86**
20	Retain Central Bank material under s33AK for a contingency period of 12 months from the date of dissolution of the current Dáil.	**6.87**
21	Review all material in the Banking Inquiry Archive and agree a retention policy for material of historic relevance in the context of the Oireachtas Archive establishment project 2016-17.	**6.88**
22	Publish witness statements which have been redacted or not published on grounds of prejudice to criminal proceedings once the risk of prejudice has abated.	**6.89**
23	Ensure that there is sufficient time and resources to appropriately audit compliance with directions, where a decision is taken to compel the production of documents.	**7.29**
24	Remove the statutory requirement for pre-payment of expenses for criminal sanctions to take effect. Inability to meet the cost of attending should be a defence to the charge.	**7.35**
25	Amend the Commission guidelines to provide that witnesses may apply for pre-payment of expenses where they cannot meet the expenses of attending.	**7.36**
26	Include a standard provision in all contracts for expert advice services to Government requiring the contractor to cooperate with parliamentary inquiries where requested.	**7.66**
27	Agree an optimum staffing structure and terms and conditions to provide the necessary (expert, legal and administrative) staffing support for Joint Committee inquiries in the next and future Dáileanna.	**8.17**
28	Provide flexibility for the Oireachtas to recruit expert support, including removal of the requirement to obtain sanctions and approvals from the Department of Public Expenditure and Reform and the Commission for Public Service Appointments for fixed-term contract expert support positions.	**8.18**

3. The Banking Inquiry in Numbers

3.1	**Timeline from introduction of 2013 Act to final Report**	**2 yrs 9 months**
■	2013 Act passed and Standing Orders agreed	10 months
■	Joint Committee established and relevant Proposal agreed	9 months
■	Context and Nexus Phases of the Inquiry delivered	14 months
3.2	**Joint Committee meeting days**	**106**
■	Private meeting days	57[1]
■	Public meeting days	49
■	Public hearing sessions (note multiple sessions per meeting day)	95
3.3	**Witnesses called to public hearings**	**131**
■	Context Phase witnesses	34
■	Nexus Phase witnesses	97
3.4	**Evidence and documents**	
■	Public hearing statements	131
■	Written only (non-appearing witnesses) statements	42
■	Witnesses from whom Material Clarifications sought	31
■	Institutions which provided documents[2]	15
■	Pages received from Institutions	500,000 approx.
■	Pages relied upon and published with report as Volume 3	10,000 approx
3.5	**Affected parties correspondence**	**670**
■	No of s. 24 letters issued	93
■	No of s. 25 letters issued	457
■	No. of s. 38 & 39 letters issued	88
■	No. of s. 38 & 39 submissions received	32
3.6	**Support staff**	**57[3]**
■	Secretariat	23
■	Investigation team	18
■	Legal	5
■	Members' parliamentary assistants	11
3.7	**Cost of the Inquiry (€)**	**6,568**
■	Set up, preparation and establishment costs	1,070
■	Running costs	5,498

1 Includes all private sessions from the establishment of the Joint Committee in May 2014.

2 See Chapter 7 for further details.

3 Numbers are *approximate full-time equivalents.* Many staff were on fixed-term contracts of varying duration.

4. Constitutional and Statutory Framework for Oireachtas Inquiries

Pathway to the 2013 Act

4.1 In its 2002 *Abbeylara* judgement[4], the Supreme Court held that the Houses of the Oireachtas have no inherent constitutional power to make findings which impugn the good name of individuals who were not members of the Oireachtas. This judgement effectively sounded the death knell for parliamentary inquiries over the next decade.

4.2 Building on various analyses conducted in the intervening period[5], the March 2011 Programme for Government contained a commitment to hold a Referendum to amend the Constitution "*to reverse the effects of the Abbeylara judgment to enable Oireachtas committees to carry out full investigations*".

4.3 The Bill to amend the Constitution was passed by the Houses on 22 September 2011. However, the proposal to amend the Constitution was rejected by Referendum held on 27 November 2011 with 812,008 votes in favour (46.6%) and 928,175 votes against (53.3%).

4.4 The Government subsequently decided to introduce legislation setting out a comprehensive statutory framework for parliamentary inquiries within the current Constitutional parameters. The Houses of the Oireachtas (Inquiries, Privileges and Procedures) Bill 2013 was published by the Minister for Public Expenditure and Reform in May 2013 and was enacted on 24 July 2013. The Minister commenced the Act on 25 September 2013[6].

4.5 The Act required the Houses of the Oireachtas to adopt internal rules ("Standing Orders") to facilitate the holding of inquiries: the relevant Standing Orders were adopted by both Houses by early February 2014, clearing the way for the establishment of the first parliamentary inquiry under the new legislation.

The *Abbeylara* principle

4.6 It is important to emphasise, as the Minister for Public Expenditure and Reform did in the debate on the 2013 Act, that there has been no change to the Constitutional framework for parliamentary inquiries. The *Abbeylara* principles and general principles of fair procedures still apply to the work of Oireachtas inquiries.

4.7 These principles are reflected throughout the 2013 Act, which contains many provisions designed to ensure fair procedures to protect the good names of persons and institutions throughout the inquiry process, from compelling documents and witnesses, to considering evidence, to drafting the inquiry report.

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4 Martin Maguire and others Applicants v. Seán Ardagh and others, Ireland and the Attorney General Respondents [2001No. 329 JR; S.C. Nos. 324, 326, 333 and 334 of 2001]: Supreme Court 11 April 2002.

5 In his speech on the Thirtieth Amendment of the Constitution Bill (Seanad Éireann, 22 September 2011), the Minister for Public Expenditure and Reform highlighted the work of the Law Reform Commission: *Consultation Paper on Public Inquiries* [LRC CP 22-2003], and the work of the Joint Committee on the Constitution: *Article 15 of the Constitution: Review of the Parliamentary Power of Inquiry* [Fifth Report, January 2011 – A11/0140].

6 S.I. No. 362 of 2013.

4.8 From a public perspective, the general constitutional principles governing the work of parliamentary inquiries can be difficult to explain and understand. They are certainly onerous on parliamentary Joint Committees and create complexity both internally, in running and managing the inquiry, but also in communicating the work of the inquiry to an external audience.

4.9 As the first post-*Abbeylara* inquiry, it is the firm belief of the Joint Committee that, while the Constitutional framework creates challenges and complexity, there is a clear place for, and value to be gained from, parliamentary inquiries into significant issues of public policy.

Powers of the Joint Committee to make findings

4.10 The 2013 Act provides for a number of different types of parliamentary inquiry. The Banking Inquiry is an "inquire, record, report" inquiry under section 7 of Part 2 of the Act (a so-called "Part 2 Inquiry"), where the primary purpose is to record evidence and report on the evidence[7].

4.11 As a Part 2 inquiry, the Banking Inquiry had very limited power to make findings of fact, which could only be made where the evidence on which the finding is based was not contradicted[8]. The Joint Committee could make recommendations arising from findings of fact[9].

4.12 The inquiry could make findings which impugn a person's good name only where this had not been contradicted, including by the person themselves. A person also includes an institution. Based on this restriction, such a finding is unlikely, if ever, to arise in practice. However the Joint Committee could outline material contradictions in evidence, allowing the public to draw their own conclusions on conflicting evidence.

4.13 The only exception to the "uncontradicted" rule for findings of fact is for a finding of "relevant misbehaviour", which is essentially a finding of non-cooperation with the inquiry. The Joint Committee did not make any formal findings on this ground, however this report details areas where the Joint Committee was critical of individual and institutional engagement with the inquiry.

4.14 The most important and core function of an "inquire, record, report" inquiry is the power to make findings that any matter relating to "systems, practices, procedures or policy or arrangements for the implementation of policy" ought to have been carried out differently[10]. The inquiry can also make recommendations on such findings[11].

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7 Section 7(1)((a) and (b))

8 by a witness or any other person in the inquiry or in a court, tribunal or commission – see Section 7(1)(c) and s.7(2)

9 Section 7(1)(d)

10 Section 17(3)(a)

11 Section 17(3)(b)

4.15 The standard of proof for making findings of fact is the balance of probabilities[12]. The Joint Committee must give reasons in writing for any such findings[13]. The Act requires the final report to set out the evidence and the findings of fact including of relevant misbehaviour[14].

4.16 Section 7 inquiries have very limited power to make findings of fact (i.e. only where there is uncontradicted evidence) yet these inquiries have the same onerous obligations in terms of fair procedures and consultation as other Part 2 Inquiries with much more significant powers to make findings of fact. Even though it had very limited powers to make findings, the Banking Inquiry had to meet a high bar in terms of its procedures and processes in order to protect the good name of institutions and witnesses.

4.17 Serious consideration should be given to creating a specific type of "inquire, record, report" inquiry, solely with power to make findings in relation to systems, practices, procedures or policy, and with no power to make findings of fact in relation to a person who was not a member of the Houses. Fair procedures requirements should then be set at an appropriate level for this limited power to make findings. The current limitation that findings can only be made on uncontradicted evidence could therefore be removed, because this new type of inquiry should not affect a person's good name.

4.18 The Joint Committee recommends that the 2013 Act be amended to create a specific type of "inquire, record, report" inquiry, with power to make findings in relation to systems, practices, procedures or policy only. While this type of inquiry would have no power to make findings of fact in relation to a person who was not a member of the Houses, it would be subject to less onerous obligations in terms of fair procedures and consultation as a result.

Criminal or civil liability and criminal proceedings

4.19 The Joint Committee's statutory role reflects the separate and distinct constitutional roles of the Houses of the Oireachtas and the Courts. The Joint Committee could not make findings of criminal or civil liability[15] (for example it could not make findings that a person was guilty of professional negligence).

4.20 Equally, in order to respect the role of the Courts and judicial process, the Joint Committee could not compel evidence if the evidence or document could, if given to it, reasonably be expected to prejudice any criminal proceedings pending or in progress in the State or any criminal investigations being conducted in the State[16]. This had a number of impacts on the work of the Banking Inquiry, details of which are outlined in this Volume.

12 Section 27(a)
13 Section 27(b)
14 Section 33(1).
15 Section 17(2)(b)
16 Section 71(1)(c)

Bias

4.21 The 2013 Act contains specific provisions to deal with bias arising in the conduct of parliamentary inquiries.

4.22 It is open to any person to make a submission to the Committee on Procedure and Privileges (CPP) of the relevant House claiming that a perception of bias might arise in a reasonable person in relation to a member appointed to take part in a Part 2 Inquiry, and this process could ultimately result in the removal of such member from the Joint Committee and compromise the Inquiry.

4.23 The Act and Standing Orders[17] also allow a member of an Inquiry Committee to recuse themselves where they believe a perception of bias arises. This procedure was not formally invoked during the Banking Inquiry.

4.24 The Joint Committee was mindful of the rules in relation to bias in the conduct of the inquiry. On a limited number of occasions, individual members of the Joint Committee privately advised the Chairman and Joint Committee Clerk of their view that a perception of conflict of interest on their part could arise with the witness listed, and that they therefore did not wish to participate in the questioning of that witness to avoid any perception of bias.

4.25 The Joint Committee also agreed a protocol on management of conflict in relation to deliberations on the report. Any Joint Committee member who felt that there was a risk of perception of conflict of interest in relation to report content on a witness or institution was advised to notify the Clerk to the Joint Committee and the Chairman to that effect and to adopt a passive role in Joint Committee deliberations on that content[18].

4.26 The Joint Committee welcomes the fact that no submissions in relation to bias have been made to the CPPs since the Joint Committee obtained its formal powers as a Part 2 Inquiry Committee[19].

Cabinet confidentiality

4.27 Cabinet confidentiality is provided for in Article 28.4.3 of the Constitution and is a binding obligation which cannot be waived either by individual members of the Government or by a later subsequent Government.

4.28 In preparing the relevant proposal, the Joint Committee initially had concerns that Cabinet confidentiality and the relevant provisions of the Act[20], could restrict the extent to which the Joint Committee could consider certain matters relevant to the Inquiry.

17 Section 21(3) , Dáil Standing Orders 97A & 97B and Seanad Standing Orders 85A & 85B

18 Notifications, if any, are recorded in the proceedings of the Joint Committee.

19 On 25-26 November 2014

20 Section 71(1)(a) and (b)

4.29 Having taken legal advice, the Joint Committee was satisfied that, while Cabinet confidentiality protects the contents and details of discussions at meetings of the Government, it does not extend to the actual decisions made, or the documentary evidence used in the run up to the decision. Documents which were created for another purpose and which were used by Cabinet in making its decision are, in a similar vein, not covered by Cabinet confidentiality.

4.30 Initial concerns about Cabinet confidentiality did not impact on the work of the Inquiry in terms of public hearings. In the absence of a detailed compliance review (see Chapter 7 for details), the Joint Committee is not in a position to assess whether there was a material impact in terms of documentation.

5. Challenges specific to the Banking Inquiry

5.1 The Banking Inquiry faced a number of very particular challenges, which are unlikely to be replicated for a future inquiry.

"First inquiry"

5.2 The Referendum defeat sent the Government back to the drawing board in November 2011, and it took almost 18 months for the inquiries legislation to be published. Even allowing for this, it took a further 10 months to establish the inquiry once the statutory framework was in place, in comparison to the 15 months remaining in the lifetime of the Dáil when the Joint Committee received its Part 2 powers from the Dáil and Seanad at the end of November 2014.

5.3 The steps over that 10 month period included the establishment of the Joint Committee, the appointment of members, the preparation of the Relevant Proposal, evaluation and reporting (separately) by the Committees on Procedure and Privileges of the Dáil and the Seanad, and decisions of the Houses.

5.4 In the course of preparing for public hearings, the Joint Committee identified a requirement for additional procedural rules ("Standing Orders") to provide for:

(1) removal of Joint Committee Members who are absent for witness evidence, unless such absence is due to exceptional circumstances[21], and

(2) discharge from the Joint Committee of a Member for contravening a direction of the Chairman to cease questioning or for contravening the 2013 Act[22].

Both Houses adopted the Standing Orders at the request of the Joint Committee and they are now in place for future inquiries.

5.5 The fact that the Banking Inquiry was the first inquiry under the 2013 Act meant that the framework and processes of the Inquiry had to be designed and created alongside the establishment and running of the Inquiry. The Joint Committee agreed and piloted a large number of processes and protocols in the form of the "Nexus Operating Model", to run the many activities specifically or implicitly required by the Act. These covered for example –

(1) Witness selection and management

(2) Evidence strategy and publication

(3) Public hearings management

(4) Information management and security

(5) Consultation on the draft report.

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21 On 2 April 2015, pursuant to Dáil Standing Order 94C and Seanad Standing Order 82C, the Joint Committee agreed that it was necessary to proceed with witness evidence and Mr John Moran consented to having his evidence heard by the Joint Committee in the absence of Senator Susan O'Keeffe. The Joint Committee also agreed that as the Senator's absence was due to exceptional circumstances, Dáil Standing Order 94B and Seanad Standing Order 82B (removal of a member) did not apply.

22 Dáil Standing Order adopted on 107J adopted on 5 March 2015 | Seanad Standing Order 103O adopted on 11 March 2015.

5.6 The Operating Model, developed in close consultation with the Joint Committee's legal team, was reviewed and added to by the Joint Committee at least monthly, as the inquiry progressed. As such it was a critical supporting element in making the inquiry work within the limited time available and in ensuring that fair procedures requirements were embedded in the Joint Committee's working practices. For example, appropriate notice to witnesses being called to give evidence, giving witnesses an opportunity to make submissions, notifying persons named in witness statements and/or public hearings, and consulting persons affected by draft reports[23]. This strategy proved to be successful in mitigating the risk of legal challenge.

5.7 Nevertheless, due to the less than optimum timescale for the inquiry and the pressure for early public hearings, there was limited time for scoping of the inquiry, and all of the inquiry phases had to be conducted on a parallel basis. This had a number of practical implications, for example –

(1) Directions for written documents had to issue very quickly. As can be seen from Appendix 6, the Joint Committee sought a very wide range of documents by direction, and up to half a million pages were provided in response. The documents published with this report (in Volume 3) are those which were considered relevant to public hearings, and/or relied on as evidence. A preliminary "sifting" process (in advance of formal directions) by way of initial scoping witness statements or by way of site visits to examine files in situ (or both) might have been more effective, however the time was not available to the team to take this approach.

(2) With its tight time-frame, the schedule did not allow the Joint Committee to test contradictions by recalling witnesses for oral evidence. Instead this was done by using written statements on a voluntary basis to inquire into material clarifications following the completion of public hearings.

5.8 An optimum inquiry requires:

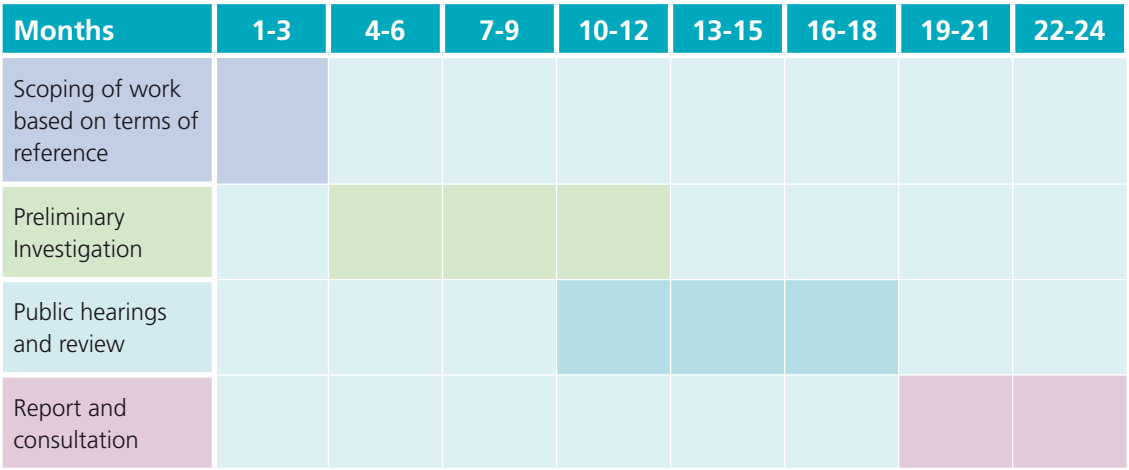
(1) Adequate time for all phases

(2) Appropriate sequencing of phases

(3) Appropriate/minimal overlapping of phases

23 See Chapter 6 for general comments on the conduct of the Nexus Phase investigation and alternative investigation models.

Figure 5.1: Part 2 Inquiry: Optimum timing and sequencing of phases



5.9 The Joint Committee recommends that the optimum timescale for a parliamentary inquiry into any matter of significant public interest is 24 months, dating from the time the Relevant Proposal is agreed by the Houses. The Banking Inquiry had 14 months.

Professional secrecy obligations under section 33AK of the Central Bank Act 1942

5.10 Section 33AK of the Central Bank Act 1942 (as amended) ("section 33AK") prohibits listed categories of persons within the Central Bank from disclosing certain confidential information. During the preparation of the relevant proposal in July-August 2014, the Joint Committee's advisory group alerted the Joint Committee to the fact that section 33AK would create a significant impediment to the work of the inquiry. This was the first time the impact of this section had been drawn to the Joint Committee's attention: it was not specifically identified in the pre-legislative scrutiny process conducted by the Joint Committee on Finance, Public Expenditure and Reform on the 2013 Act. Nor does it appear to have been flagged in the speeches or debates in the Houses on the establishment of the Banking Inquiry.

5.11 In its Relevant Proposal, the Joint Committee requested an amendment to section 33AK of the 1942 Act to provide a specific "gateway" to allow Central Bank documentation to be legally provided to the Banking Inquiry. The amending Act, which was passed by the Houses in February 2015, did not become operational until the Houses agreed to put sanctions in place for Members of the Joint Committee who disclosed section 33AK information in the course of parliamentary proceedings (including Joint Committee proceedings).

5.12 Even though the amending legislation was fast-tracked as far as possible, the Central Bank could not legally provide the material directed until the amending Bill was enacted and the required Standing Orders were in place[24].This delayed the receipt of Central Bank documentation in comparison to other institutions, although the Joint Committee would

24 Central Bank (Amendment) Act 2015 was enacted on 4 February 2015. Standing Orders setting out sanctions for non-compliance with provisions of the Act were adopted by both Houses on 10 February 2015, clearing the way for material to be provided to the inquiry.

like to acknowledge the co-operation of the Central Bank in working to provide material as quickly as possible once the statutory gateway was operational.

5.13 With the gateway mechanism in place, the Joint Committee was enabled to access key Central Bank material for the first time and to use it in questioning witnesses in public hearings and in its final report.

5.14 The use of the information by the Joint Committee was however subject to certain restrictions and conditions, the primary one being that the Joint Committee could only legally use the information in summary or aggregate form[25]. Specifically –

(1) the Joint Committee was not permitted to reference a specific document or piece of information but was able to use the information to identify themes and to reference in a general sense. This condition created additional workload for the inquiry team who had to prepare summary narratives of the many documents which were covered by section 33AK.

(2) the Joint Committee was not legally permitted to publish any of the documents, during or after the Inquiry, as professional secrecy still applies.

5.15 The Joint Committee recommends that any statutory or other impediments to compelling documents should be identified and addressed at an early stage for future inquiries.

Criminal Proceedings and Investigations

5.16 The Joint Committee was prohibited from compelling evidence if the evidence could, if given to the Joint Committee, reasonably be expected to prejudice any criminal proceedings pending or in progress in the State or any criminal investigations being conducted in the State[26].

5.17 Criminal investigations and proceedings relating to certain banking institutions and witnesses ran in parallel with the inquiry process. This had an impact on the ability of the Joint Committee to publish some documents and witness statements in fully un-redacted form, and also to hear certain witnesses in public hearings. Ongoing criminal proceedings also had to be taken into account by the Joint Committee in questioning witnesses and in preparing its final report.

5.18 The Act contains a number of provisions for formal DPP intervention to prevent prejudice to criminal trials. For example, there is a formal process for DPP input to draft reports[27]. While formal engagement is clearly necessary, it should be a last, or at least a late, resort. The Joint Committee is of the view that there would be considerable benefit in agreeing a protocol

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25 "in summary or aggregate form, such that individual credit institutions cannot be identified, without prejudice to cases covered by criminal law" [per Directive 2013/36/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 26 June 2013].

26 Section 71(1)(c)). See also the related restriction in s.71(1)(e) which provides that a Joint Committee cannot direct evidence or documents where they could reasonably be expected to prejudice: *"(i) the prevention, detection or investigation of offences, (ii) the apprehension or prosecution of offenders, or (iii) the effectiveness of lawful methods, systems, plans or procedures employed for the purposes of the prevention, detection or investigation of offences or the apprehension or prosecution of offenders."*

27 Section 95. For other examples of where the DPP has a statutory role in respect of the inquiry processes, see s.72 and s.100

for informal engagement between the Office of the DPP and Parliamentary Inquiries as a complement to the formal processes under the Act.

5.19 The Joint Committee, through its legal team, did liaise informally on an ongoing basis with the Office of the Director of Public Prosecutions (DPP) throughout the inquiry. The DPP was provided with copies of all Notices of Intention to direct documents or witness evidence, along with the directions themselves, and copies of all witness statements. The Office of the DPP agreed to act as a single point of contact for the Joint Committee and to coordinate on behalf of related offices, namely the Office of the Director of Corporate Enforcement and the Garda Bureau of Fraud Investigation, and this decision is welcomed by the Joint Committee.

5.20 On the formal advice of the DPP, the Joint Committee ultimately had to withdraw its directions to certain witnesses to give evidence, on the grounds that this would prejudice criminal proceedings or investigations. The Joint Committee also decided not to publish certain witness statements on the same grounds.

5.21 The Joint Committee has absolute respect for the role of the DPP and the separation of legal and parliamentary processes. The Joint Committee also acknowledges that criminal trials should always take precedence in importance over parliamentary inquiries which cannot make findings of individual culpability, either criminal or civil.

5.22 However the Joint Committee encountered difficulty in making an informed assessment of the potential risk of prejudice posed by the publication of certain witness statements in the absence of detailed feedback from the DPP. The Joint Committee had to conduct a blind risk analysis in these cases and had to be more conservative than it would have liked as a result of this.

5.23 The Joint Committee also takes the view that the minimum 14 day period required to be allowed under the Act for the DPP to give a declaration (that evidence or documents directed by the Joint Committee could reasonably be expected to prejudice criminal proceedings or investigations) is unduly lengthy and that a more reasonable minimum period could be provided for.

5.24 The Joint Committee recommends that there should be a requirement for the DPP to prepare general guidelines for Inquiry Committees on avoiding prejudice to criminal trials and investigations.

5.25 The Joint Committee recommends the agreement of a protocol for engagement between the DPP and the Oireachtas to manage the risk of prejudice arising in criminal trials while also respecting the separate role of the Oireachtas to conduct inquiries. This could include a provision for imparting certain information to the Committee Chairman only on a confidential basis, on the basis of which the Chairman would bring a recommendation to the Committee.

5.26 The Joint Committee recommends that section 72(2) of the 2013 Act be amended to reduce the minimum fourteen day period for the DPP to furnish a declaration to a more reasonable minimum.

Senior Counsel review of allegations concerning the Banking Inquiry investigation team

5.27 Following receipt of a report from a member of staff containing a number of allegations on the operation of the investigation team, the Acting Clerk of the Dáil commissioned an independent review by Mr. Senan Allen SC on 22 July 2015. The Report concluded that there was no substance whatsoever in any of the allegations and that being so, no question arose of any recommendation on further action. The Report was published in full on the Oireachtas website with personal details redacted.

5.28 Mr. Allen's review was entirely separate from the Joint Committee. Members were however briefed by the Acting Clerk of the Dáil on both the establishment and the outcome of Mr. Allen's review, given its relationship to the work of the Joint Committee and impact on the investigation team while the investigation was ongoing.

5.29 The Joint Committee notes the impact which the unfounded allegations had on the workings of the Joint Committee and all staff thereof and highlights in particular the complexities and difficulties arising from maintaining the work of a parliamentary inquiry along with the investigation of allegations against its staff members simultaneously.

5.30 Mindful of the provisions of the Protected Disclosures Act 2014, the Joint Committee recommends that the Committees on Procedure and Privileges (CPPs) of both Houses of the Oireachtas should urgently consider the issue of how members of both Houses deal with allegations brought to their attention.

5.31 The Committee further recommends that the CPPs should issue guidance in relation to the best practice for dealing with any such disclosures to ensure an appropriate balance between the right of access to a public representative and the right of those subjected to allegations to be fairly treated.

Risk of dissolution of the Dáil before completion of the Inquiry

5.32 By law, the current Dáil must be dissolved by early March 2016. Any Part 2 inquiry Committee which is ongoing at the dissolution of the Dáil automatically dissolves with the Dáil and cannot report subsequently.

5.33 As part of initial planning, the Joint Committee considered the feasibility of publishing interim reports at key points in the process, for example, following the context phase. Ultimately the Joint Committee did not consider it feasible to publish interim reports given the requirement to consult affected parties under the Act prior to publication of such reports[28], and the already challenging timescale in which to conduct the initial investigation, hold public hearings and prepare a final report.

28 Section 35, 38 and 39

5.34 The Joint Committee recommends that the 2013 Act should be reviewed and amended with a view to –

(1) including appropriate transitional provisions to mitigate the impact of Dáil dissolution on the work of inquiries, and

(2) improving the workability of the interim reporting provisions, in particular the potential to lighten the consultation process for interim reports.

Reporting date

5.35 The original reporting date of 30 November 2015 was an extremely challenging timescale given the scope and subject matter proposed for the inquiry. At its meetings on 30 July and 8 September, the Joint Committee considered, in detail, the process for closing its evidence and the schedule for drafting, consideration and publication of the final report. As a result of this consideration, the Joint Committee agreed to request an extension to its reporting date to not later than 28 January 2016. The Houses agreed the extension motions on 6 October 2015.

Conclusion

5.36 In summary, the Banking Inquiry faced a number of very specific challenges as a result of –

(1) the time taken to establish the inquiry as a Part 2 Inquiry, allowing only 14-15 months to conduct the inquiry,

(2) being the first inquiry conducted under the 2013 Act and under *Abbeylara* principles, meaning that all processes and protocols had to be more or less created from scratch,

(3) limitations on the use of a large volume of documentation as a result of section 33AK,

(4) running in parallel with related criminal trials, and

(5) the investigation into the operation of the investigation team arising from allegations which were found, on foot of the investigation, to be without any substance.

5.37 When these very specific challenges are added to –

(1) the wide scope of the terms of reference and the 20 year time period covered,

(2) the size of the Joint Committee,

(3) the number of institutional participants and the volume of documentation, and

(4) the number of public hearing witnesses,

the Joint Committee had the ingredients for a very challenging project, the scale of which was unprecedented in the context of the relatively limited experience to date of Oireachtas inquiries.

6. Inquiry Phases and Operating Model

Scoping and Establishment Phase

6.1 This Phase involved the establishment of the Joint Committee in May-June 2014, and the scoping, evaluation and agreement of the inquiry terms of reference. It also included recruitment of support staff and administrative set-up[29].

6.2 The Joint Committee was appointed by the Houses in May 2014[30]. At this point, the 11 member Joint Committee had one specific purpose: to prepare a "relevant proposal" for a Part 2 Inquiry into the banking crisis.

6.3 The Joint Committee's terms of reference were to consider –

(1) the appropriate scope and terms of reference for the inquiry, including the method of initial investigation of the inquiry subject matter,

(2) the functions and powers required to be delegated to the Joint Committee to allow it to conduct the inquiry,

(3) any other related matters.

6.4 In developing the relevant proposal, the Joint Committee was required to set out –

(1) the subject matter of the inquiry,

(2) the conduct, events, activities, circumstances, systems, practices or procedures to be inquired into,

(3) the persons to whom that conduct or those events, activities or circumstances relate, or whose activities, systems, practices or procedures were to be inquired into, and

(4) the anticipated time schedule for the proposed inquiry, including whether it was proposed to conduct the proposed inquiry in a single period or in phases.

6.5 The Joint Committee worked intensively over the period June to September 2014 to scope and agree the relevant proposal, assisted by an advisory group with relevant knowledge and expertise. The Joint Committee submitted its final proposal to the Committees on Procedure and Privileges of both Houses on 24 September 2014 and published it on the inquiry website.

6.6 The Committees on Procedure and Privileges (CPP) of the Dáil and Seanad separately considered and evaluated the Joint Committee's proposal in a number of meetings in October and November 2014. Both CPPs engaged legal and policy expertise in preparing their reports[31].

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29 See Chapter 8.

30 Orders of Dáil Éireann and Seanad Éireann of 14 May 2014.

31 Joint Committee on Procedure and Privileges of Dáil Éireann: *Relevant Report on the relevant proposal for a banking inquiry under Standing Orders and the Houses of the Oireachtas (Inquiries, Privileges and Procedures) Act 2013:* laid before the Dáil on 21 November 2014.

Joint Committee on Procedure and Privileges of Seanad Éireann: *Relevant Report on the relevant proposal for a banking inquiry under Standing Orders and the Houses of the Oireachtas (Inquiries, Privileges and Procedures) Act 2013:* laid before the Seanad on 19 November 2014.

6.7 In their respective reports, both CPPs supported the establishment of the inquiry and endorsed the terms of reference, subject to including a reference to the role which Ireland's membership of the euro may have played in the crisis.

6.8 As the CPP processes were conducted separately, two separate references to the euro were included in two different parts of the terms of reference motion. As the text proposed to both Houses is required to be identical, both references were included in the terms of reference motion.

6.9 The Joint Committee recommends that the CPPs of both Houses consider a joint approach to considering Relevant Proposals for the conduct of inquiries by Joint Committees. This will avoid the risk of contradictory or conflicting amendments to terms of reference proposals and should also be more efficient from a timing and cost perspective.

6.10 Based on discussions on legal advice received after it had completed its original proposal, the Joint Committee subsequently submitted a supplementary proposal to CPPs in November 2014. The supplementary proposal requested the adoption of Standing Orders to provide that all Joint Committee members must be present for the hearing of witness evidence. Both CPPs declined to accept the supplementary proposal as they were already engaged in their consideration of the Relevant Proposal. The Joint Committee therefore requested the Government Chief Whip and the Leader of the Seanad to table the necessary motions, which they agreed to do.

6.11 While the Joint Committee understands the legal consideration underlying CPPs refusal to accept a further proposal, it believes that this is a very rigid approach which may not serve future inquiries well and that there should be scope for dialogue between the requesting Committee and the CPPs if needed.

6.12 The Joint Committee recommends that the CPPs consider ways to engage and dialogue with a requesting Committee if needed for the purposes of clarification or improvement of a Relevant Proposal as part of the process of CPP consideration under Standing Orders.

6.13 The debates on the CPP reports and the inquiry terms of reference took place in the Dáil and Seanad on 25 and 26 November 2014 respectively. Both Houses passed Resolutions agreeing the terms of reference[32] and also amended the Joint Committee's Orders of Reference to formally establish it as a Part 2 inquiry under the Act.

32 Resolution of Dáil Éireann of 25 November 2014| Resolution of Seanad Éireann of 26 November 2014. See Volume 1 of this report for text.

Context and Nexus Phases

6.14 The Joint Committee proposed a conceptual framework for the inquiry with two Inquiry Phases – a Context Phase and a Nexus Phase.

6.15 While there was no difference between the two phases from a legal perspective, there were a number of practical differences:

Figure 6.1: Context and Nexus Phase differences

	Context Phase	Nexus Phase
Purpose	■ Frame the broad context and set out the background to the crisis ■ Prepare the ground for Nexus public hearings	■ Identify the key questions to be addressed ■ Identify and direct the provision of relevant evidence (written and oral) on this basis ■ Analyse the evidence and report
Witnesses	■ Expert witnesses who played no role in the events and circumstances being inquired into ■ Witnesses with indirect roles in the events and circumstances being inquired into	■ Witnesses who played a direct role in the events and circumstances being inquired into
Compellability powers used	■ No	■ Yes
Evidence	■ Witness statements ■ Oral evidence	■ Books of core documents ■ Witness statements ■ Oral evidence ■ Evidence given on oath
Risk	■ Some legal risk from persons named in evidence	■ Increased legal risk due to additional reputational risk for witnesses ■ Increased media scrutiny
Scale and complexity	■ Standard Joint Committee approach ie. business as usual in terms of number of meetings and approach to questioning	■ Increased number and intensity of public hearings ■ More structured, evidence-based approach to questioning

Context Phase: December 2014 to April 2015

6.16 The objective of this phase was to frame the broad context for the inquiry and set out the background to the banking crisis and to prepare the ground for further public hearings later in 2015. The framework was set out in the Relevant Proposal as follows:

Figure 6.2: Context Phase Framework[33]

<table>
<tr><td colspan="2">Previous Reports on Ireland's Banking Crisis</td></tr>
<tr><td colspan="2">International, EU and domestic policy context including reports of international monitoring agencies</td></tr>
<tr><td>Early warnings, divergent and contrarian views</td><td>The Role of the Media</td></tr>
<tr><td colspan="2">Relationships between State authorities, political parties, elected representatives, supervisory authorities, banking institutions and the property sector</td></tr>
</table>

6.17 This phase involved 31 public hearing sessions on 17 days over 12 weeks, with 34 witnesses being called.

6.18 Public hearings were held with expert witnesses and other relevant witnesses[34], for the purpose of information-gathering to inform the Nexus Phase. All public hearing witnesses in the Context Phase attended voluntarily.

6.19 The Nexus investigation phase ran in parallel with the Context Phase. The Joint Committee met in private session throughout the Context Phase to plan and agree directions for documentation, witness lists, witness submissions and to make the many other varied decisions required of the Joint Committee under the Act.

6.20 The Joint Committee is of the view that the Context Phase was useful in the particular context of the Banking Inquiry, however it may not be a model that would have general application to parliamentary inquiries. Given the long lead-in time to the formal establishment of the inquiry, one of the benefits of the Context Phase was that it enabled public hearings of the "long-awaited Banking Inquiry" to start just over three weeks after the Joint Committee's establishment as a Part 2 inquiry. The Context Phase public hearings also allowed time for the Joint Committee to conduct the preliminary investigation and preparatory work for the Nexus Phase public hearings in private session in parallel with Context Phase public hearings. Finally, the Context Phase also allowed the Joint Committee to effectively road-test its new procedures through engagement with "arms-length"non-contentious witnesses who had not been directly involved as main actors in the banking crisis.

33 Source: Relevant Proposal to the Joint Committees on Procedure and Privileges of Dáil Éireann and Seanad Éireann for the Conduct of an Inquiry in accordance with the Houses of the Oireachtas (Inquiries, Privileges and Procedures) Act 2013 into Certain Aspects of Ireland's Banking Crisis published on 24th September 2014.

34 Context Phase Themes for public hearings are at Appendix 1.

Nexus Phase: December 2014 to September 2015

6.21 In the Nexus Phase, the Joint Committee engaged with institutions and individuals who had roles relating to the crisis, focussing on three broad elements — Banking Systems & Practices, Regulatory and Supervisory Systems & Practices, and Crisis Management Systems and Policy Responses — and how these three elements interacted with each other.

Figure 6.3: Nexus Phase Framework[35]

6.22 The Nexus Phase involved a move by the Joint Committee to compelling witnesses and statements and the use of core documents. This phase involved 64 public hearing sessions on 32 days over 14 weeks, with 97 witnesses being called to public hearings, in addition to 42 written witness statements for non-public hearing witnesses.

Nexus Operating Model

6.23 As outlined in Chapter 5, the Joint Committee designed and piloted a wide range of processes and protocols, in the form of the "Nexus Operating Model". The Joint Committee also adopted a "Memorandum of Procedures" which was issued along with all Notices of Intention to issue a Direction.

6.24 The Joint Committee recommends that the Nexus Operating Model and Memorandum of Procedures be adapted and used for future inquiries and has decided to publish them with this Volume of the Report[36].

35 Source: Relevant Proposal to the Joint Committees on Procedure and Privileges of Dáil Éireann and Seanad Éireann for the Conduct of an Inquiry in accordance with the Houses of the Oireachtas (Inquiries, Privileges and Procedures) Act 2013 into Certain Aspects of Ireland's Banking Crisis published on 24th September 2014.

36 See Appendix 3 and 4 respectively.

Investigation

6.25 As a first step in the Nexus Phase, the Joint Committee identified and agreed 21 themes to be explored, which in turn mapped to the terms of reference agreed by the Houses. Each theme had a number of key lines of inquiry. These came to 67 in total. This framework[37] set the scope of the Nexus phase in each of the three streams of Banking, Regulatory and Crisis Management. It also provided a content structure for public hearings, the evidence sought and ultimately the Final Report.

6.26 The Joint Committee decided to use its power to compel (or "direct") the production of documents as a matter of general practice in this phase. This decision was taken for practical reasons, to provide certainty as to the date of receipt of document and to allow the Joint Committee to plan ahead. Witness attendance was compelled for the same reasons and also to ensure a consistency of approach to all witnesses.

6.27 A large volume of documentation was received by the Joint Committee. Documents were reviewed and sifted by analysing relevance against key lines of inquiry and possible questions for witnesses. Documents selected as relevant were included in "Booklets of Core Documents" which were printed for use in the public hearings by Joint Committee members and by witnesses. These documents were in many cases referred to by Members in questioning or by witnesses in giving their evidence.

Preliminary investigation: Models for Inquiries

6.28 The 2013 Act implicitly assumes that the Committee conducts the investigation and this is the model which was used for the Banking Inquiry. However there are other models which can be used.

Figure 6.4: Preliminary investigation models: examples

Preliminary investigation	Type of Committee
Investigation team engaged by a Part 2 Joint Committee[38]	Relevant Oireachtas Committee or Inquiry Committee established for specific purpose
Comptroller and Auditor General Report	Committee of Public Accounts
Reports of other statutory bodies, Commission of Investigation etc	Relevant Oireachtas Committee or Inquiry Committee established for that specific purpose

37 Nexus Phase Themes and key lines of inquiry are at Appendix 2.

38 Under section 67(2) of the 2013 Act

6.29 Where the investigation is conducted by the Committee, time and privacy is required for the investigation phase leading to public hearings. This phase requires the engagement or recruitment of a number of persons with specialist knowledge and skills to assist the Committee. While the specific expert knowledge requirements will vary depending on the scope and subject matter of the inquiry, all inquiries will need strong leadership and programme/project management skills. In the case of the Banking Inquiry, an 18-strong investigation team was recruited to support the Joint Committee, from banking and financial services, regulatory and public service backgrounds.

6.30 The Investigation Phase involves a heavy workload, including scoping of lines of inquiry, compelling documents, reading and reviewing documents, preparation of potential witness pool and distillation into witness lists, dealing with queries from Committee members and briefing the Committee collectively in advance of public hearings. In the case of the Banking Inquiry, this phase commenced on 1 December 2014 and ran throughout the inquiry, only being fully completed in July 2015.

6.31 This suggests an approximate minimum time-frame for the preliminary investigation leading to public hearings of 9-12 months. Under the Act as currently devised, the investigation is conducted by the Committee with the expert support of persons engaged to assist the Joint Committee under section 67(2) of the Act. In practice, this means that the Inquiry Committee must sit in private for up to 12 months to direct the investigation and make all key decisions under the Act. Absent any constitutional barriers, it would be more efficient if the Committee could appropriately delegate scoping and preliminary investigation to expert staff who would then prepare a preliminary report, upon which the Committee would base its planning for witness selection and public hearings.

6.32 An alternative model is the Committee of Public Accounts (PAC) and the Office of the Comptroller and Auditor General (C&AG). It is open to PAC to submit proposals to conduct an Inquiry under the 2013 Act within its terms of reference and, if agreed, the preliminary investigation is conducted by the Office of the C&AG, which has its own powers under the Constitution and in law. A further alternative model is to conduct an inquiry into a report prepared by a statutory body or a Commission of Investigation.

6.33 However, without a pre-existing investigation and preliminary reporting structure, Committees will have to (as the Banking Inquiry had to) recruit skilled staff who, under the current statutory framework, can only act under the detailed direction and control of the Committee.

6.34 The Joint Committee recommends that the Act should be reviewed to make specific provision for the conduct of the preliminary investigation phase of inquiries by expert staff of the Committee and appropriate delegation of powers to staff, where constitutionally permissible.

6.35 If an Oireachtas investigation model is to be used, Committees need flexible and quick access to the necessary staffing resources. Committees would benefit from the services of a small, core section, which would house expertise for parliamentary inquiries and would have the capacity and flexibility to quickly source and provide the necessary staffing supports to Committees, either in the preparation of Relevant Proposals or in the conduct of a Part 2 inquiry.

6.36 The Joint Committee recommends that the Houses of the Oireachtas Service should explore the establishment of a new Oireachtas Investigations Unit to support Committees in developing inquiry proposals in the 32nd Dáil (See also Chapter 8 re staffing).

Witness selection and management in the Nexus Phase

6.37 The Joint Committee's objective in the Nexus Phase was to hear oral evidence from the main relevant witnesses who had key roles leading up to, during and after the crisis having regard to the institutions being inquired into and the evidence and documentation provided to the Joint Committee. Given the wide scope of the inquiry terms of reference and the need to complete the final report within the lifetime of the 31st Dáil, it would have been impossible for the Joint Committee to examine individual cases or to bring in every witness that was suggested or requested.

6.38 The Joint Committee adopted a structured and objective witness selection process which took the terms of reference, themes and key lines of inquiry as a starting point. Key questions to be answered were then identified and confirmed by documentation review and analysis. The next step was to identify witnesses who, by virtue of their role, tenure and institution, were in a position to provide relevant evidence to the Joint Committee. This potential witness pool was reviewed and prioritised to identify witnesses to be directed to attend at public hearings ("public hearing witnesses") and non-appearing witnesses who were directed to provide written witness statements only ("non-appearing witnesses")[39].

6.39 Names and dates for public hearing witnesses were agreed by the Joint Committee in six separate tranches and names for non-appearing witnesses were agreed in six batches. Under the witness management protocol in compliance with the Act, there was a seven to eight week lead-in for public hearing witnesses between the notification to the witness and the public hearing date. For non-appearing witnesses, the lead-in was slightly shorter, at six weeks approximately for the written statement to be provided.

6.40 Statements from witnesses for public hearings were published on the website on the day of the public hearing. Statements from non-appearing witnesses were published in batches by decision of the Joint Committee[40].

39 See Appendix 5 for list of witnesses.

40 All witness statements approved for publication by the Joint Committee have been published with this Report as Volume 3

6.41 As part of the statutory process of directing evidence, the Joint Committee was required to consider submissions from witnesses in response to the Joint Committee's notice of intention to compel evidence. The main grounds for submission from witnesses were requests for -

- change of date of public hearing,
- extension to the deadline for written statements,
- excusals on medical grounds,
- change in scope of lines of inquiry to be covered in their statements.

6.42 The Joint Committee considered submissions on a case by case basis. The Joint Committee acceded to requests for time extensions or date changes where these were reasonable and it was feasible to do so, having regard to the time constraints under which the Joint Committee was operating. As the public hearings progressed, the Joint Committee had less leeway to offer flexibility on appearance dates to witnesses. In the case of illness, witnesses were excused on production of a medical certificate.

6.43 Chapter 7 gives further detail on the use of directions by the Joint Committee.

Section 24 and 25 statements

6.44 Under the Act the Joint Committee was required to provide advance notice of witness evidence to persons where their good name is impugned therein, to afford them an opportunity to respond ("section 24 letters").

6.45 Where the Joint Committee considered it appropriate to do so having regard to fair procedures, the Joint Committee was also required to provide a transcript of oral evidence given to the Joint Committee to persons referred to in public hearings ("section 25 letters"). Such persons could then furnish a response to the Joint Committee if they so wished.

6.46 Response statements to section 24 and 25 letters were considered on a case by case basis and published by decision of the Joint Committee.

Nexus Phase Public hearings

6.47 The public hearings in the Nexus Phase commenced on 22 April 2015 and concluded on 10 September 2015. The Joint Committee sat in public to take oral evidence under oath on Wednesday and Thursday each week, with Tuesday's meeting reserved for briefings in private session. In general, oral evidence was taken in two separate sessions, morning and afternoon, although towards the latter stages of the public hearings, three to four sessions became a feature on many days.

6.48 The number of witnesses and the breadth of the evidence was exceptionally challenging to manage. The Joint Committee used a number of mechanisms to maximise and streamline evidence-taking, such as –

(1) witness panels for certain witnesses,

(2) reduced and concentrated number of questioners for certain oral evidence,

(3) prioritisation and concentration of the witness pool and use of written statements for non-appearing witnesses, and

(4) use of written statements for material clarifications required following public hearings.

6.49 The issue of whether some of the inquiry could have been carried out by sub-committee(s) of the Joint Committee sitting in parallel, was flagged in the Relevant Proposal and was subsequently examined by the Joint Committee at an early stage. However it was not considered a feasible approach for the Banking Inquiry given –

(1) the close inter-relationship between all three inquiry streams, namely banking, regulation and crisis management/response, and

(2) the legal requirement for all Joint Committee members to be present for all witness evidence leading to findings of fact.

6.50 The Joint Committee notes the size of previous Inquiry Committees, all of which were dedicated sub-Committees of established Committees.

Figure 6.5: Size of previous Committees of Inquiry: 1999-2002

Inquiry	TDs	Senators	Total
Inquiry into the fatal shooting of John McCarthy at Abbeylara, Co Longford on 20th April 2000[41]	6	--	6
Inquiry into the circumstances surrounding the entering into and performance of the Iarnród Éireann Mini-CTC and Knockcroghery signalling projects and the Esat/CIÉ cabling and telecommunications project and related matters[42]	6	1	7
Inquiry into the Investigation by the Comptroller and Auditor General into the administration of Deposit Interest Retention Tax (DIRT) and related matters[43]	6	--	6

6.51 The relatively large size of the Joint Committee had a material impact on the number of witnesses called to public hearing and on the duration of public hearings. The original estimate of 50 public hearing witnesses rose to nearly double that figure following detailed Joint Committee deliberations in order to fully facilitate members' requests.

41 Joint Committee on Justice, Equality, Defence and Women's Rights, Sub Committee on the Abbeylara Incident (2001).

42 Joint Committee on Public Enterprise and Transport, Sub Committee on the Mini-CTC Project (2000–2002)

43 Joint Committee of Public Accounts, Sub Committee on Certain Revenue Matters (1999-2001).

6.52 All eleven members of the Joint Committee, including the Chair, participated in questioning the majority of witnesses during public session, with two rounds of questions per member being allowed. This gave rise to very lengthy days on occasion, especially where there were more than two witness sessions.

6.53 The Joint Committee is strongly of the view that all members of an Inquiry Committee should have parity and be treated equally in questioning, including as between both Houses, and does not generally support an approach where some members would not participate in questioning witnesses, even on a strict rota basis. The Joint Committee reluctantly had to change its approach for certain witnesses and panels towards the end of the Nexus public hearings, as there was significant pressure on some days with up to four separate witness sessions, some of which involved panels. The Joint Committee is satisfied that there was value in the parity approach to ensure fairness in allocation of time to members for questioning.

6.54 The size of the Joint Committee also impacted on the general workload of the investigation team in supporting the Joint Committee. The team had regular ongoing contact with all members of the Joint Committee and their parliamentary assistants on an individual basis throughout the inquiry, in addition to supporting the Joint Committee collectively through private and public sessions.

6.55 The Joint Committee recommends that membership of future Part 2 Joint Committees of both Houses be limited to a maximum of seven members.

Clarification and close evidence

6.56 As part of the closing of evidence for the final report, the Joint Committee identified a requirement for a number of clarifications on specific questions arising from oral or written evidence previously given to the Joint Committee.

6.57 These were requested on a voluntary basis from witnesses (due to time constraints) and subsequently published by decision of the Joint Committee[44].

Security and information management protocols

6.58 The Joint Committee adopted detailed information management protocols to ensure the confidentiality and security of documents and evidence given to the inquiry.

6.59 Despite the measures put in place, leaking and unauthorised publication by certain media outlets of witness statements and documents which had been designated as confidential by the Joint Committee became a serious issue during the inquiry. The Joint Committee was extremely concerned by these disclosures and reported several instances to An Garda Síochána as potential criminal offences[45] under the 2013 Act.

44 See Appendix 5 for list of witnesses who provided responses.

45 Section 41(5)

6.60 Publication of a document given by the inquiry to a person is a criminal offence under the Act. However there are no specific sanctions attaching to the members or staff of the Joint Committee under the Act[46], other than the sanction of the Houses in the case of members and general breach of contract in the case of staff.

6.61 The Joint Committee recommends that comprehensive and appropriate sanctions for unauthorised disclosure of confidential material be put in place for future inquiries, to cover members of the Houses, and the staff of members and of Joint Committees.

Report

6.62 The Joint Committee agreed a report structure consisting of three volumes, covering the main report, the inquiry framework and published evidence.

6.63 A first draft report was submitted to Joint Committee members in mid-November 2015 and the Joint Committee reviewed, re-drafted and amended the draft over the following weeks. The draft report was agreed by the Joint Committee on 10 December 2015[47].

6.64 Under the Act, affected parties are entitled to receive a copy of the draft report (or the relevant part thereof) and can submit statements requesting –

(1) omission of text from the draft report due to commercial sensitivity where that information is not necessary for the purposes of the Inquiry ("section 38 process").

(2) amendment to the draft report on grounds of:

a) failure to observe fair procedures,

b) inaccurate, misleading or irrelevant findings,

c) inappropriate recommendations based on the evidence,

d) non-compliance with the Act,

("section 39 process").

6.65 On approval of the draft report by the Joint Committee, the Joint Committee provided persons affected by the report with copies of the draft report (or the relevant part thereof) and requested the submission of statements on the content within fourteen days, as required by the Act[48]. It is not clear from the Act whether the section 38 and 39 processes are intended to be run consecutively or concurrently. The Joint Committee ran them concurrently for practical reasons on legal advice.

6.66 The Joint Committee recommends that the Act be reviewed to make it clearer that the section 38 and 39 consultation processes with affected parties can be run concurrently.

6.67 The Joint Committee met on 31 December 2015 to consider the statements received from affected parties and agreed to make a number of amendments to the Report.

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46 Section 37

47 See Minutes of Proceedings Appendix to this Volume.

48 Sections 35, 38 and 39

6.68 Following this, the Joint Committee had to allow a statutory 21 day standstill period before the Report could be finalised by the Joint Committee and submitted to the Houses for their approval to publish the Report. After the conclusion of the standstill period, the Report was delivered to the Clerks of both Houses and published on 27 January 2016.

6.69 Under the 2013 Act and related Standing Orders, the Joint Committee could not publish its report without the prior approval of both Houses. This requirement posed practical difficulties as simultaneous decisions of both Houses were required in order to make the report public as soon as possible after its circulation to members of the Houses. The rationale for this statutory provision is unclear and the Joint Committee is of the view that Part 2 Inquiries, as with all Committees, should be empowered to print and publish their reports by laying them before the relevant House, and that there should be no need for an enabling decision of the Houses.

6.70 The Joint Committee recommends that the 2013 Act and Standing Orders be amended to remove the requirement for Dáil and Seanad approval to publish an Inquiry report.

Communicating the work of the Banking Inquiry

6.71 For a parliamentary inquiry to do its work effectively, it must also be seen to do its work effectively. It was necessary that the story of the inquiry was told – clearly, efficiently and successfully.

6.72 Effective communication of the Inquiry's work was a priority for the Chairman and the Joint Committee.

6.73 As a Part 2 Inquiry is an inquisitorial process, members were constrained from making any public comment on the evidence before them while the inquiry was ongoing. The Joint Committee also had to deliberate in private session every week, which can present communication challenges.

6.74 An effective and objective communications strategy was needed to ensure that the public and the media were informed about the work of the inquiry, while respecting the legal principles under which the inquiry operated.

6.75 A dedicated press and communications service was provided for the inquiry to engage with the local, national and international media across all platforms, whether it was print, broadcast or digital and to enhance public engagement with the inquiry.

6.76 The aim was to achieve maximum public awareness of, and engagement with, the Banking Inquiry by communicating to our audience through traditional media, social and digital media and through our own direct channels of mobile App, the Oireachtas TV Channel and a dedicated inquiry website.

6.77 A key part of communications strategy was the Banking Inquiry website, which went live on 17 December 2014, the first day of public hearings in the Context Phase.

6.78 The website operated as a digital 'one-stop-shop' for the public and media, a place where members of the public and the press could access information and documentation on the Inquiry as well as follow its proceedings. Among its key features were:

- it was fully responsive and worked well across mobile devices.
- it Included live webcasting of all public hearings.
- fully searchable transcripts from all public hearings were available at the end of each day.
- all documentation was easily searchable.
- embedded videos of all hearings were posted by the end of each day.
- it had easy-to-find and easy-to-read information about the Joint Committee.
- included an easy-to-use inquiry schedule calendar.
- contact details.
- FAQ section.
- comprehensive press release section.

6.79 Written witness statements were also published in batches, by decision of the Joint Committee, and posted to the website. The website also contained the schedule for upcoming public hearings, once confirmed, along with lists of notices and directions issued by the Joint Committee.

6.80 There was also a parallel and complementary social media campaign to promote the work of the inquiry, highlight the inquiry proceedings and market the website.

6.81 All public hearings were broadcast live on Oireachtas TV which was available on Virgin Media Channel 207, Sky Channel 574 and eir Vision 504. Proceedings were also webcast on oireachtas.ie and through the Houses of the Oireachtas App.

6.82 Press statements were regularly issued before and after public meetings to the media, as well as posted on the website and on social media, to provide up-to-date and relevant information on Joint Committee proceedings. The Chairman also issued press statements following each private session to inform the press and public on the work of the Joint Committee, provide progress reports and update the press and public on decisions made by the Joint Committee.

6.83 Public meetings were regularly attended and watched by the media. The work of the Joint Committee received widespread coverage in the print, broadcast and digital media over the course of the inquiry. Reports on public hearings were carried across all media outlets on a daily basis and broadcast on dedicated news channels.

6.84 The public also connected with Banking Inquiry according to figures for web viewership. Over the course of the Inquiry:

- There were 278,938 website page views.
- The live stream had over 900,000 views online.
- There were 34,109 users over the period.
- There were a total of 94,084 website sessions.
- 81% of all website visits were from within Ireland, with the UK (7%), US (3%) and Belgium (0.75%).

Finally, the website was redesigned around the report and relaunched on the day the report was submitted to the Houses.

Preserving the work of the Banking Inquiry

6.85 As part of the Operating Model, the Joint Committee agreed an archiving and retention policy based around three broad categories of records.

Figure 6.6: Banking Inquiry Retention recommendations

	Category	Retention period	Recommendation
A	**Report – Vols. 1, 2 & 3**	Permanent	Published report papers to be archived permanently.
B	**Central Bank Section 33AK Documents**[49]	12 months	Retain securely on the document management system under strict access protocols as a contingency. On expiry of the retention period, destroy or return.
C	**All other records**[50]	Indefinite	Retain securely on the document management system under strict access protocols. CPPs of both Houses to decide on retention policy as part of establishment of the Oireachtas Archive in 2016-17.

6.86 The Joint Committee recommends that, with the exception of Central Bank material under s33AK, unpublished Banking Inquiry material should be retained indefinitely in a secure archive under the custody of the Clerks of both Houses.

49 These documents can never be published as the statutory gateway under the Central Bank (Amendment) Act 2015 closes when the Joint Committee dissolves.

50 Includes all material received by the Inquiry and not published by the Inquiry, along with correspondence and private session minutes. Also includes un-redacted versions of documents and witness statements published as part of Volume 3.

6.87 The Joint Committee recommends a contingency retention period of 12 months from the date of dissolution of the current Dáil for Central Bank material under s33AK. This is in case it is needed in the event of a claim by a witness for legal costs to the Houses of the Oireachtas Commission. On the expiry of the 12 month period, the Commission should take a decision to destroy the material (or return, if originals).

6.88 The Joint Committee recommends that all material in the Banking Inquiry Archive should be reviewed and that a retention policy for material of historic relevance should be recommended to the Committees on Procedure and Privileges of both Houses in the context of the Oireachtas Archive establishment project 2016-17.

6.89 The Joint Committee recommends that witness statements which have been redacted or not published on grounds of prejudice to criminal proceedings should be published by decision of the Committee on Procedure and Privileges, on the recommendation of the Clerks of both Houses, at an early stage once the risk of prejudice has abated.

7. Use of Directions by the Inquiry

Powers of the Joint Committee

7.1 As a Part 2 Inquiry, the Banking Inquiry had powers to legally direct persons, papers and records. The Inquiry used its powers of compellability to:

(1) direct person/s to give to the Joint Committee any document in their possession or control as specified in the direction.

(2) direct witnesses to attend before the Joint Committee on a date and at a time and place to give evidence and to provide any document in their possession or control.

(3) direct witnesses to make a statement in writing on the matters on which the witness was required to give evidence.

(4) direct witnesses to do any other thing which in the view of the Joint Committee was just and reasonable. This power was mainly relied upon to direct witnesses to comply with formatting requirements and a maximum word count.

7.2 The Joint Committee's main rationale for using these powers was to give a measure of certainty in planning the investigation and the public hearings schedule. Compellability powers also safeguard the rights of participants and witnesses by requiring them to be given adequate notice and providing them with the opportunity to make submissions to the Joint Committee.

Process of Compelling: a 6 to 8 week process

7.3 The legal process of compelling documentation and witness attendance comprised of a Notice of Intention to issue a direction sent to the participant/witness with a 2 week timeframe to make a submission on the direction issued.

7.4 The Joint Committee then considered the submission (if any) and issued a direction to the participant/witness. Generally the direction gave a further 2 weeks to produce the documentation or 4 weeks in the case of public hearing attendance.

Documents

7.5 The Joint Committee directed 14 participants to produce specified documents by line of inquiry[51].All requests were approved by the Joint Committee before issue and were based around compiling evidence to support the Key Lines of Inquiry of the Nexus Framework.

7.6 During the submission stage, it was indicated that not all documents would be supplied by the Direction deadline and in many cases extensions to deadlines were requested and agreed.

7.7 This resulted in 40,044 documents being supplied to the Inquiry.

51 Details of categories of documents compelled - see Appendix 6.

7.8 In some cases, a further direction was issued to compel additional documentation. In most cases when requesting further information not contemplated in the original direction a voluntary request for information was issued. A further 1,235 documents were obtained through voluntary requests made to the participants.

Figure 7.1: Directions issued and number of documents provided

	Participant	Date of direction/s	No. of Docs Received/ Uploaded[52]
1	**Department of Finance**	15/01/2015, 12/03/2015	**7,648**
2	**Central Bank**[53]	26/02/2015	**7,557**
3	**Bank of Ireland**	15/01/2015	**5,657**
4	**IBRC**	15/01/2015, 01/04/2015	**4,860**
5	**AIB**	15/01/2015	**3,350**
6	**PTSB**	15/01/2015	**2,693**
7	**Ulster Bank**	15/01/2015	**2,202**
8	**EBS**	15/01/2015	**2,058**
9	**KPMG**	05/02/2015	**1,703**
10	**Deloitte**	05/02/2015	**1,476**
11	**Department of the Taoiseach**	15/01/2015, 12/03/2015	**773**
12	**PWC**	05/02/2015	**496**
13	**NTMA**	12/03/2015	**447**
14	**EY**	05/02/2015	**254**
	Total		**41,279**

7.9 Due to scheduling and timing constraints, NAMA was asked to provide documents on a voluntary basis. Over 100 documents were furnished by NAMA to the inquiry under this voluntary process.

7.10 By the end of the investigation process, approximately 500,000 pages of documents had been reviewed by the Investigation Team. Documents considered relevant to the public hearings were incorporated into Core Document Books and are published in Volume 3 of this Report.

52 Total documents received from the listed participants include documents received under additional voluntary requests, where relevant.

53 The Central Bank Direction could only issue at this later date as primary legislation and Standing Orders had to be enacted to deal with the restrictions created by s.33AK of the Central Bank Act 1942 before the Direction could legally take effect.

Exemptions and redactions

7.11 The Joint Committee issued general guidelines in respect of the statutory exemptions which compelled persons may seek to rely on in respect of the direction when issued. There are a number of statutory exemptions under the 2013 Act, in particular under section 70 and section 71. These exemptions include:

(1) documents that are irrelevant to the Inquiry Terms of Reference.

(2) documents which detail discussions at a meeting of the Government or any part of a document that details discussions at a meeting of the Government.

(3) documents which would, if given to the Joint Committee, reasonably be expected to prejudice any criminal proceedings or investigations.

(4) documents that are reasonably expected to adversely affect the security of the State.

7.12 The Joint Committee also explained to witnesses that if a particular legal provision applied to part of a document only, it was permissible to redact the information falling within that provision.

7.13 The Joint Committee requested all persons from whom documents were sought, who relied on a specific statutory or other legal basis to withhold documents, to give an account of the nature of the documents being withheld under a specific category, and an explanation of why the particular exemption being relied upon arose.

7.14 The Joint Committee also informed participants that they were permitted to redact the following personal information:

(1) Names, or information which would otherwise make the person identifiable, in respect of banking customers.

(2) Telephone numbers, dates of birth and home addresses.

Witness attendance at public hearings

7.15 The Joint Committee had the power to direct a witness to attend before the Committee on a date and at a time and place to give evidence and to provide any document in their possession or control. It had the power to direct a witness to make a statement in writing on the matters on which the witness was required to give evidence.

7.16 The Joint Committee also had the power to give any other directions where these were just and reasonable. This power was primarily used in the directions to ask witnesses to submit statements and documentation in a particular format, fill in the metadata sheet, and to keep within a maximum threshold on the word count.

Witnesses excused by the Joint Committee following DPP intervention

7.17 Four parties received a direction to attend before the Joint Committee and were excused by the Joint Committee following a Section 72 declaration by the DPP. They were John Bowe, William McAteer, Sean Fitzpatrick and Pat Whelan (all Anglo).

7.18 The Joint Committee withdrew a Direction to attend from Denis Casey (ILP/PTSB) following correspondence from the DPP requesting the withdrawal. Peter Fitzpatrick (ILP/PTSB) received a Direction to produce a written statement and was excused by the Joint Committee following a Section 72 declaration by the DPP.

Notices or directions withdrawn or amended by the Joint Committee

7.19 Certain witnesses were issued with Notices of Intention to issue a Direction/Directions and were subsequently not proceeded with.

Figure 7.2: Directions/Notices withdrawn or amended by the Joint Committee

Name	Relevant Institution	Comment
Gillian Bowler	ILP/PTSB	Joint Committee decision, withdraw Notice of Intention to issue Direction
Liam Carroll	Developer	Joint Committee decision to withdraw Direction to provide a written statement
Don Godson	AIB	Joint Committee decision to withdraw Direction to provide a written statement
Brian Hillery	Central Bank/IFSRA	Joint Committee decision to withdraw Direction to provide a written statement
Marie Mackle	Department of Finance	Joint Committee decision to withdraw Direction
Seamus McCarthy	Comptroller and Auditor General	Joint Committee decision, direction amended requiring witness to provide written statement only
Nicholas O'Brien	Department of Finance	Joint Committee decision, direction amended requiring witness to provide written statement only
Michael Ryan	Merrill Lynch	Joint Committee decision, direction amended requiring witness to provide written statement only

Voluntary Witnesses

7.20 In general, any person in the State, any Irish citizen outside the State, or any person in an Irish registered vessel or aircraft or on an Irish diplomatic mission outside the State may be compelled[54]. The Joint Committee could not therefore direct persons residing outside the State and who did not hold an Irish passport. The Joint Committee could however direct all persons residing within the State regardless of their citizenship.

7.21 Exceptions exist in certain circumstances for the President, an officer of the President, Judges, the Master of the High Court, the Attorney General, an officer of the Attorney General, the DPP, an officer of the DPP and persons entitled to diplomatic immunity[55]. (see also paragraph 7.23).

7.22 A number of witnesses appeared or provided witness statements on a voluntary basis.

Figure 7.3: Voluntary witnesses

Name	Relevant Institution	Type of Contribution
Mike Aynsley	Banks - Anglo	Public Hearing and Witness Statement
Marco Buti	International - EU Commission	Public Hearing and Witness Statement
Craig Beaumont	International - IMF	Witness Statement only
Ajai Chopra	International - IMF	Public Hearing and Witness Statement
Matthew Elderfield	Central Bank	Witness Statement only
Dargan Fitzgerald	Auditors - Ernst & Young	Public Hearing and Witness Statement
Gerry Fitzpatrick	Auditors - Deloitte	Public Hearing and Witness Statement
Paul Gallagher	Government - Attorney General	Public Hearing and Witness Statement
Merrill Lynch International[56]	Government Advisors	Witness Statement only

Waiver of legal privilege

7.23 The Joint Committee welcomes that the Government and the Department of Finance agreed on a voluntary basis to waive their right to legal privilege over certain matters. This allowed certain witnesses, for example a former Attorney General, to be questioned on specific areas in public hearings that they otherwise could not have discussed.

54 See s.68(1)

55 See s.67(5), (6) and (7) and s.68(2) for Part 2 Inquiries. See s.67(8) and s.83(7) for further assistance in interpreting those subsections.

56 Merrill Lynch International (MLI) provided advice to the National Treasury Management Agency (NTMA). The MLI team consisted of approximately 17 individuals (the MLI Team) and a composite statement was provided.

General assessment of compliance with Joint Committee directions

7.24 The Joint Committee acknowledges the significant workload undertaken and the volume of documentation provided by participants and witnesses in response to the Joint Committee's directions.

7.25 The Joint Committee also acknowledges that not all witness requests for accommodation, for example on date changes could be facilitated and yet there was full compliance with these directions, with one exception.

7.26 There were some minor technical breaches in terms of the dates of submission or the discovery and delivery of further documentation after submission, primarily due to the tight deadlines given in the directions. There were also breaches of maximum word count requirements by a small number of witnesses, however the Joint Committee decided on balance and on a case by case basis to accept these as exceptions due to the evidentiary value of the content.

7.27 Due to limited time and resources, the Joint Committee was not in a position to conduct a detailed compliance review of the documents provided by institutional participants to establish whether –

(1) documents requested were in fact received,

(2) redactions made were appropriate, and

(3) any documents withheld were appropriately withheld.

7.28 A detailed compliance review would have been a lengthy and costly process, which would not have in any event guaranteed 100% assurance. Without such a review however, the Joint Committee is not in a position to make a full and definitive assessment on compliance with requests for documents. While this is not ideal, nevertheless the Joint Committee does not feel that a lack of documentation has prejudiced its ability to carry out this Inquiry effectively.

7.29 The Joint Committee recommends that, where a Committee of Inquiry chooses to compel the production of documents, the Committee should ensure that it has sufficient time and resources to appropriately audit compliance with its directions.

Failure to attend public hearing: David Drumm

7.30 David Drumm[57] was issued with a Direction to appear before the Joint Committee and produce a written statement on 11 June 2015. The Joint Committee directed him to appear before the Joint Committee on 29 July 2015 and compelled a written statement by 1 July. Mr Drumm's written statement was received a week after the deadline in the direction.

57 Group CEO Anglo Irish Bank 2005 to 2008

7.31 Mr Drumm indicated on 23 July 2015 that he could not attend the 29 July public hearing due to family and work commitments in the USA and requested that he give evidence by video link. The Joint Committee considered this request and obtained legal advice which recommended against hearing evidence by video link. The DPP also communicated with the Joint Committee in which it strongly argued against the Joint Committee considering hearing evidence by video link. Having considered the request, the advice and the DPP's concerns, the Joint Committee made the decision to reject the request for a video link and thus decided to maintain the direction. It communicated this decision to Mr Drumm on 28 July.

7.32 Following this, the Joint Committee considered whether it should accept and consider as evidence the written statement of Mr David Drumm and took legal advice on this issue. Subsequent to this consideration, the DPP intervened to say that the statement would prejudice criminal proceedings if published. The Joint Committee engaged with the DPP through correspondence to attempt to resolve the issue but in the end, in light of the views of the DPP, the Joint Committee made the decision not to publish the statement and to reject it as evidence.

7.33 The Joint Committee is of the view that David Drumm should have complied with the direction of the Joint Committee to appear but does not believe that there are grounds for a finding of "relevant misbehaviour" under the Act. Such a finding must give an account of the prejudice caused to the inquiry as a result of the failure to co-operate. In the same way as the DPP intervened to prevent the publication of Mr. Drumm's written statement, the DPP would almost inevitably have intervened to prevent Mr. Drumm's appearance on the grounds of prejudice to criminal proceedings. Therefore in reality, no prejudice can be said to have been caused to the inquiry.

7.34 Failure to comply with a direction to attend a public hearing where a witness's expenses have been paid is a criminal offence under the Act[58]. No offence is committed where expenses have not been advanced. The Houses of the Oireachtas Commission guidelines on payment of witness expenses provide for payment of expenses on a recoupment basis on application by the witness and do not provide for pre-payment. Thus the deterrent effect of an offence for failure to appear does not exist under present circumstances. That said, the Joint Committee notes that this issue had little practical effect on the Inquiry, as all witnesses apart from Mr Drumm complied fully with the obligation to appear.

7.35 The Joint Committee recommends that the requirement for pre-payment of expenses for criminal sanctions to take effect should be removed. However inability to meet the cost of attending should be a defence to the charge.

7.36 The Commission guidelines should also be amended to provide that witnesses may apply for pre-payment of expenses where they cannot meet the expenses of attending.

58 Section 75(1)(a)

Failure to produce a written statement: Tom Browne

7.37 Tom Browne[59] was issued a direction on 11 June 2015 to appear on 24 July, with a written statement to be furnished to the Joint Committee by 26 June 2015. Mr Browne failed to furnish a statement within the deadline imposed by the direction. Following the passing of the deadline the Joint Committee issued two further separate items of correspondence asking for a statement to be supplied.

7.38 No statement was furnished and the Joint Committee referred the failure to comply to the Gardaí on 15 July for further investigation and possible enforcement proceedings. Mr Browne did produce a statement on 20 July 2015. A second direction was issued to Mr Browne on 13 August and he appeared before the Joint Committee on 9 September.

Persons who declined to appear before the inquiry: Jean-Claude Trichet event at the Institute of International and European Affairs

7.39 Jean-Claude Trichet, former ECB President[60], declined an invitation to appear before the inquiry. In this context, Patrick Honohan, Governor of the Central Bank agreed to liaise with the Joint Committee and in a letter dated 2 February 2015 to Mr Honohan, the Chairman suggested a series of options to be explored for engagement with the ECB.

7.40 Jean-Claude Trichet subsequently agreed to respond to questions from Joint Committee members from the audience during an academic lecture as a guest of the Institute of International and European Affairs (IIEA) at the Royal Hospital Kilmainham on 30 April 2015. This was in a personal capacity and was not on behalf of the ECB.

7.41 Through the IIEA, Mr Trichet furnished a copy of his lecture in advance and the Joint Committee shared their questions with him in advance. It was agreed that a transcript would be prepared of the event. The transcript was then admitted into evidence, uploaded to the website and was used by members in questioning other witnesses.

7.42 The Joint Committee subsequently sought to follow up on its questions through the clarification process. In a letter to the Joint Committee dated 29 October 2015 Mr Trichet stated that the ECB, including its former office-holders, is precluded from appearing before national parliamentary inquiries and therefore it was not possible for him to participate in the Inquiry or provide a statement to the Joint Committee.

59 Anglo Irish Bank: Head of Wealth Management Division 2002-2005, Head of Lending Ireland 2005 -September 2007

60 ECB President from November 2003 to October 2011

Parties who declined to appear before the Inquiry: the European Central Bank

7.43 The European Central Bank did not engage with the Inquiry. The Joint Committee acknowledges that there was no legal obligation for them to engage, nor could the Joint Committee compel them to do so. However the Joint Committee made significant efforts to engage constructively with the ECB in order to obtain relevant and material evidence while respecting that the ECB would have to voluntarily assist the Joint Committee.

7.44 The Chairman of the Joint Committee first wrote to Mario Draghi, President of the ECB on 13 November 2014 as part of preliminary contact with all potential institutional participants in order to establish clear lines of communication in advance of the formal commencement of the inquiry some two weeks later. The standard letter was clear that it was not an indication that the Joint Committee would in fact call the addressee before the inquiry or seek documents from them. The letter requested that the ECB nominate a dedicated contact point for the Inquiry Secretariat for further liaison.

7.45 Mario Draghi responded on 15 December 2014 that, as the ECB is primarily held to account by the European Parliament, the ECB did not see itself in a position to participate in inquires conducted by national parliaments and would therefore not appoint a dedicated contact person.

7.46 The Chairman of the Joint Committee wrote again to Mario Draghi on 22 December 2014 asking the ECB to initially make available any documentation held by the ECB concerning events leading up to the Irish Government decision to introduce a Bank Guarantee on 30 November 2008, including minutes of meetings, notes, diary entries, transcripts, recordings and any other relevant documentation. The Chairman also asked for the opportunity to discuss how the ECB could assist the Inquiry while respecting its primary accountability to the European Parliament.

7.47 Mario Draghi responded on 24 February 2015 reiterating that the ECB is primarily held to account by the European Parliament and hence does not participate in parliamentary inquiries on a national level. However he stated that the ECB could, in line with past practice, take part in an informal exchange of views on matters within the remit of the ECB's mandate with the relevant committee(s) of the Irish Parliament and that Vitor Constancio, vice-President and longest-serving Member of the Executive Board, stood ready to represent the ECB in such an exchange of views. Mr Draghi requested that the Chairperson(s) of the relevant committee(s) be so advised. Finally, Mr Draghi confirmed that the records of the ECB did not contain any documentation concerning events leading up to the Irish Government decision to introduce a Bank Guarantee on 30 September 2008.

7.48 The Chairman of the Joint Committee responded to Mario Draghi on 3 March 2015 stating that, while the Joint Committee was disappointed that the ECB would not participate in the Inquiry, the Joint Committee welcomed the offer to engage with the relevant Oireachtas Committees. The Chairman followed up in a further letter to Mario Draghi on 2 April 2015 advising that the Joint Committee on Finance, Public Expenditure and Reform was the relevant Joint Committee for the purpose of ECB engagement and stating that he had, accordingly, passed Mr Draghi's letter of 24 February 2015 on to the Chairman of the Joint Committee on Finance, Public Expenditure and Reform.

7.49 The Chairman of the Joint Committee on Finance, Public Expenditure and Reform wrote to Vitor Constancio, vice-President of the ECB, on 23 April 2015 inviting him to attend a meeting of the Joint Committee in July 2015 to discuss the ECB's mandate in the context of Ireland's Banking Crisis 2006-13.

7.50 At this point (23 April 2015), the Joint Committee had a clear expectation that the ECB offer had been made in a general spirit of engagement with the Inquiry while respecting the ECB's mandate. The Joint Committee expected that the offer to attend a meeting of the Joint Committee on Finance (which has significant membership overlap with the Inquiry Joint Committee) would serve to facilitate the giving of evidence to the Inquiry on the role of the ECB. This was in the context of the agreement of Jean-Claude Trichet to respond to Joint Committee members' questions at the IIEA event on 30 April.

7.51 However, the Joint Committee was taken aback when Vitor Constancio responded to the Chairman of the Joint Committee on Finance, Public Expenditure and Reform on 29 May 2015 stating that the ECB could not accept the invitation to attend a meeting of the Joint Committee as long as the Joint Committee of the Banking Inquiry would be collecting evidence and until it had delivered its final report. This was on the basis that "*recent developments*" strongly suggested that there was not the necessary clear separation between an exchange of views with the Finance Committee and the work of the Joint Committee of Inquiry.

7.52 The letter concluded that accepting the invitation would imply discriminating against other national parliaments where the ECB has not participated in inquiries, and instanced examples to date where the President of the ECB had engaged with the national parliaments of Finland, France, Germany, Italy and Spain on an informal basis for an "*open exchange of views on the ECB's monetary policy*" (see Figure 7.4 for details).

Figure 7.4: ECB President Mario Draghi: informal exchange of views with EU National Parliaments

Member State	Date	Topics covered	Format
Germany [Bundestag]	October 2012	Eurobonds, Eurozone situation, supervision of ECB, ESM, role of the ECB in the Greek Troika programme and supervision of role.	Q&A session open to all Bundestag members. Held in private. Not open to public or media. No web-streaming or transcript.
Spain [Cortes & Senate]	February 2013	Role of ECB and view on the ECB's monetary policy options in the context of the Spanish economic crisis.	Open meeting for both Chambers (Senate and Cortes). Addressed by Speaker, ECB President, spokespersons for seven parliamentary groups. Held in private. Not open to public or media. No web-streaming or transcript.
France [Assemblée Nationale]	June 2013	Monetary policy, economic situation in the Eurozone, future of EMU.	Joint meeting of Finance, Foreign Affairs and EU Affairs Joint Committees. Chairs opened, followed by Q&A. Open to the media. Transcript was published.
Finland [Eduskunta]	November 2014	Economic policy and future perspectives, promoting investment in Europe, the role of the ECB in promoting growth and jobs, interplay between monetary and financial policies in the Eurozone.	Informal engagement and an exchange of views with the Speaker and three parliamentary committees. No web-streaming or transcript.
Italy	March 2015	Monetary policy, structural reforms and growth in the euro area.	Exchange of views with three Committees. Opening remarks by Chair & ECB President followed by Q&A. Web-streamed live. Minutes made available following the meeting.

Source: Oireachtas National Parliament Office, Brussels

7.53 The Joint Committee made one final attempt to engage with the ECB on 30 July 2015. On the Joint Committee's authority, the investigation team contacted Mario Draghi by email *"with a view to having a discussion with a nominated representative of the European Central Bank on the current situation regarding witness statements and evidence given at the Inquiry, which reference the Role and influence of the ECB"*. The request was for a conference call or direct meeting with a representative of the ECB. The email concluded by stating that *"The Joint Committee wish to facilitate the ECB in reviewing and responding to such statements or transcripts from public hearings"*.

7.54 The ECB responded on 10 August 2015: *"As stated in the correspondence between the President of the ECB and the Chairman of the Joint Committee of Inquiry into the Banking Crisis, Mr Lynch TD, the ECB owes its parliamentary accountability to the European Parliament and hence is not in a position to participate in the proceedings of the Joint Committee. Therefore, I hope you will understand that the ECB cannot accommodate your request for a conference call related to statements or transcripts from this committee".*

7.55 The Joint Committee notes that Mario Draghi agreed to take a limited number of questions from Irish MEPs in November 2015. The Joint Committee understands that this meeting was offered in the context of the Irish MEPs' request for the ECB to engage with the Inquiry or with the relevant Oireachtas Joint Committee. While ECB engagement with the Irish MEPs is welcome, this engagement does not in any way substitute for the lack of engagement with the Banking Inquiry and could not in fact be used by the Inquiry, not least because it came at a point where the inquiry had concluded the evidence-taking phase of its work.

7.56 The Joint Committee is strongly of the view that the ECB should have accepted the Joint Committee's invitation to co-operate with the inquiry. The Joint Committee is disappointed at the lack of constructive engagement by the ECB with the Inquiry due to the materiality and relevance of the ECB's role in the Irish Banking Crisis.

7.57 It is the Joint Committee's view that it should have been possible, with a co-operative mind-set, to reach agreement on appropriate modalities for engagement which would have met the needs of the Inquiry while respecting the mandate of the ECB.

7.58 The Joint Committee considers that it is in the public interest to give details of its engagement with the ECB as part of its final report[61].

Parties who declined to appear before the Inquiry: OECD

7.59 The Joint Committee Clerk made contact with the OECD on behalf of the Joint Committee on 9 January 2015. The Joint Committee wished to hear from a representative of the OECD in public session as part of its Context Phase hearings.

7.60 The OECD responded that it would not be in a position to send a representative to appear before the Inquiry on the basis that it had not been possible to secure the availability of the necessary senior staff. In its response the OECD directed the Joint Committee's attention to the OECD's views on the crisis as set out in the 2011 OECD Economic Survey of Ireland[62] as well as the 2013 Economic Surveys of Ireland.

7.61 As with the ECB, there was no legal obligation for the OECD to engage, nor could the Joint Committee compel them to do so.

61 See Appendix 7.

62 In particular, the Chapter "Overcoming the banking crisis".

7.62 The Joint Committee considers that the responses of the ECB and the OECD, both of whom are germane to the subject matter of the Inquiry, stand in stark contrast with the European Commission and the IMF, both of whom co-operated fully and engaged constructively with the Inquiry on a voluntary basis.

Parties who declined to appear before the Inquiry: Merrill Lynch International

7.63 The Joint Committee wrote on 29 April 2015 to Merrill Lynch International, who were engaged as advisors to the Government in September 2008 on liquidity issues and strategic options in the context of the Irish banking crisis. The letter requested the appearance, on a voluntary basis, of a relevant representative at a public hearing in July 2015.

7.64 Merrill Lynch International (MLI) responded on 13 May 2015 stating that, having considered the Joint Committee's invitation and the proposed lines of inquiry, *"we believe that these will be better answered in writing"*. The rationale was that the advice provided to the Irish Government was the product of MLI rather than a specific team member and that providing collated responses would allow the Joint Committee to benefit from MLI's *"broader organisational knowledge…rather than the recollection of any one individual employee"*.

7.65 The Joint Committee acknowledges that it had no power to direct MLI to give oral evidence and also acknowledges that it did provide a written statement in response to questions.

7.66 The Joint Committee recommends, as a general practice, that all contracts for expert advice services to Government should include a provision requiring the contractor to co-operate with parliamentary inquiries where requested.

Parties who declined to provide documents to the Inquiry: Bank of Scotland (Ireland) Ltd

7.67 The Joint Committee wrote to Lloyds Banking Group plc on 18 December 2014 requesting them to provide certain documentation relating to Bank of Scotland (Ireland) Ltd to the Joint Committee and requesting them to nominate a contact person to liaise with the Inquiry Secretariat.

7.68 Lloyds Banking Group plc responded on 26 January 2015 referring the Joint Committee to the April 2013 Report of the UK Parliamentary Commission on Banking Standards (PCBS): *"An Accident waiting to happen: the Failure of HBOS"*, which includes references to Ireland, a section on the international business, of which Bank of Scotland (Ireland) (BoSI) was a part, details of HBOS' strategy in Ireland and Irish impairments.

7.69 The letter also stated by way of background that BoSI had ceased to operate on 31 December 2010 and was dissolved in 2011. It further noted that the situation was complicated by (1) the broad scope of the Joint Committee's request (spanning many years preceding the acquisition of HBOS by Lloyds TSB and the formation of Lloyds Banking Group – LBG - in 2009) and (2) the number of structural changes that had taken place within LBG following the acquisition of HBOS including those involving BoSI. These changes, along with the fact that relevant senior personnel were no longer employed by LBG, had a bearing on the sourcing of documents relevant to the Joint Committee's request insofar as they related to BoSI.

7.70 The Joint Committee responded on 4 February 2015 that the Joint Committee would review the UK Parliamentary Commission report for relevance to the Inquiry.

8. Resourcing the Inquiry: Staffing and Costs

8.1 A parliamentary inquiry of the scale of the Banking Inquiry is a complex project and requires significant behind-the-scenes work to support the public hearings leading to the final report.

Recruitment and selection of the investigation team

8.2 The Inquiry required very specific and wide-ranging expert skillsets to conduct the investigation phase, to advise the Joint Committee in the conduct of public hearings, and to support the drafting of the report. The Joint Committee decided that a recruitment / head-hunting approach would be the best fit for the diverse needs of the Inquiry.

8.3 Recruitment and selection of the team was challenging, due to –

(1) novelty of the roles and the contractual arrangements – in order to enable a head-hunting approach, staff were employed on fixed-term contracts as "unestablished civil servants".

(2) tight timescales to get the team in place – investigation team management took up duty on 1 December 2014, and the balance of the team members were mostly in place by early February 2015.

(3) need to balance requirement for experience, knowledge and skills with the clear potential for conflict of interest – the Joint Committee had the final say in assessing conflict and its approval was required for all contract investigator appointments.

(4) requirement to obtain various external sanctions to engage fixed-term contract employees – three separate approvals were required:

- approval of terms and conditions (Department of Public Expenditure and Reform, Civil Service HR Policy Division).
- approval of appointment of staff numbers at pay levels above the grade of Principal Officer (Department of Public Expenditure and Reform, Expenditure Policy Evaluation and Management Division).
- approval for the proposed recruitment approach (Department of Public Expenditure and Reform, Civil Service HR Policy Division and the Commission for Public Service Appointments "CPSA").

8.4 The Houses of the Oireachtas Service engaged an executive search & selection company to support recruitment of the investigation team commencing in mid-October 2014. The selection process was a three to four stage process with all appointments being approved by the Joint Committee:

- Preliminary interview with recruiter (where applicable).
- Interview with the Lead Investigators and Houses of the Oireachtas Service.
- Interview with the Chairman of the Joint Committee.
- Approval by the Joint Committee of the recommended appointment on the basis of the Chairman's recommendation, candidate CV/profile and declaration of interest form.

8.5 The Joint Committee adopted a process for assessing conflict which included the completion by candidates of a declaration of interest form. A small number of candidates were not approved by the Joint Committee for appointment to investigator roles on the basis of conflict with the terms of reference of the inquiry based on their prior work experience and/or declaration. A key concern was that no team member should have worked in a senior management or key decision-making role in any of the institutions being inquired into by the Joint Committee through oral and written evidence.

Support for members of the Joint Committee: Banking Inquiry Parliamentary Assistants

8.6 Each member of the Joint Committee was entitled to employ a parliamentary assistant to provide the required support to the member in his/her capacity as a member of the Inquiry[63]. Every member of the Joint Committee availed of this entitlement.

8.7 The Joint Committee agreed a protocol to govern interaction and contact between members, their parliamentary assistants and the investigation team, including escalation to the Joint Committee and Chairman, during the Nexus Phase.

Management and organisational structure

8.8 The team of approximately 50 support staff comprised a secretariat, a team of investigators and a legal team. Resources were scaled up or down as needed during the various phases.

Figure 8.1: Banking Inquiry Organisation Chart

<table>
<tr><th colspan="8">JOINT COMMITTEE OF INQUIRY INTO THE BANKING CRISIS</th></tr>
<tr><td colspan="8">Steering Group
Chaired by Joint Committee Chairman</td></tr>
<tr><td colspan="3"></td><td colspan="2">Inquiry Coordinator</td><td colspan="2">Senior Investigator</td></tr>
<tr><td>Legal adviser</td><td>Press Officer</td><td>Inquiry Manager</td><td>Joint Committee Clerk</td><td>Project manager</td><td>Lead Investigator</td><td>Lead Investigator</td></tr>
<tr><td>Legal team</td><td colspan="4">Joint Committee secretariat</td><td colspan="2">Investigation team</td></tr>
</table>

8.9 The **secretariat** comprised staff of the Houses of the Oireachtas Service who provided general administrative support, procedural advice and communications support services to the Joint Committee.

8.10 The **investigation team** provided technical knowledge and expertise to assist the Joint Committee across the three main streams of the Inquiry terms of reference. Team members had backgrounds and experience in the areas of banking, financial regulation, and public service policy. The **Senior and Lead Investigators** were accountable to the Joint Committee

63 SI 564 of 2014 Oireachtas (Ministerial And Parliamentary Offices) (Secretarial Facilities) (Banking Inquiry) Regulations 2014

for the investigation process. They were supported by a team of investigators comprising staff recruited on fixed-term contracts linked to the duration of the inquiry and civil servants seconded from relevant Departments.

8.11 The **in-house legal team** comprised a legal adviser from the Office of the Parliamentary Legal Adviser, along with a team of lawyers recruited on fixed-term contracts linked to the duration of the inquiry. An **external legal team** of three Senior and two Junior Counsel provided additional capacity and advice where needed.

8.12 Oversight and management of the Nexus Phase of the Inquiry was supported through a Steering Group, which met weekly and also held twice-weekly conference calls.

Figure 8.2: Banking Inquiry Steering Group

Chair	
	■ **Ciarán Lynch TD,** Chairman of the Joint Committee
Secretariat	**Lead Investigators**
■ **Elaine Gunn,** Inquiry Coordinator ■ **John Hamilton,** Clerk to the Joint Committee ■ **Máirín Devlin,** Inquiry Manager ■ **Carmel Considine,** Projects Manager	■ **Peter Murray,** Senior/Lead Investigator, Banking Stream ■ **Helen Bunbury,** Lead Investigator, Regulatory and Supervisory Stream ■ **Pat McLoughlin,** Lead Investigator, Crisis Management and Policy Responses Stream
Legal adviser	**Press Officer**
■ **Cathy Egan** BL	■ **Ciarán Brennan**

8.13 Expert support for the **Context Phase** of the Inquiry was provided by FTI Consulting in conjunction with Professor Karl Whelan, UCD, who were selected following an open tendering process. Expert support for the **Relevant Proposal (scoping)** Phase was provided on a *pro bono* basis by the following: Pat Casey, Paul Gorecki, Megan Greene, Cathal Guiomard, Conor McCabe, Colm McCarthy, Seamus McCarthy, Rafique Mottiar and John Shaw.

Resourcing of future inquiries

8.14 The 2013 Act has put in place a framework which is of general application for all future Oireachtas Committee inquiries into matters of significant public importance. The Minister for Public Expenditure and Reform during the Second Stage debate on the 2013 Act[64] said:

"under the [Bill], responsibility is assigned exclusively to the Houses of the Oireachtas to determine the requirement for a formal inquiry, the terms of reference of that inquiry, the appropriate committee to conduct the inquiry and the procedural and organisational aspects of the inquiry."

64 22 May 2013

8.15 If they are to conduct effective inquiries, Oireachtas Committees need a resourcing model which will provide a flexible framework for scoping of inquiries, development of terms of reference and quick delivery of relevant expertise to Committees who have been established as Part 2 inquiries.

8.16 The Banking Inquiry was a pioneering exercise and had to build everything from scratch. The Joint Committee acknowledges that future inquiries may be more modest in their scale and ambition but believes that the basic model of the Banking Inquiry can be scaled up or down to effectively support most inquiries.

Figure 8.3: Basic Inquiry Resourcing Model

Head of Inquiry			
Investigation Team	Committee secretariat		Legal team
Head of Investigation (Project Manager)	Committee Clerk	Inquiry Manager	Legal adviser to Joint Committee
Team leaders (subject experts)	Meetings team	Document team	In-house Legal team
Team 1	Press team	Witness team	External team (SC)
Team 2		HR and budget	

8.17 The Joint Committee recommends that the Houses of the Oireachtas Commission should agree an optimum staffing structure and terms and conditions with the Department of Public Expenditure and Reform to provide the necessary expert investigator and legal support for Committee inquiries in the next and future Dáileanna.

8.18 The Joint Committee further recommends that the Commission should engage with the Department of Public Expenditure and Reform to secure the necessary flexibility for the Oireachtas to recruit expert support. This would include –

(1) removal of the grade ceiling on Commission staff appointments above Principal Officer level for fixed-term contract staff engaged for inquiries, and

(2) removal of the requirement to seek an Excluding Order from the CPSA for staff employed to support inquiries.

Costs of the Inquiry

8.19 As the first inquiry under the 2013 Act, the Banking Inquiry incurred a number of once-off, establishment costs. These included the development of a document management system to organise the significant volumes of documentation and evidence received by the inquiry.

8.20 The inquiry also required suitably secure accommodation adjacent to Leinster House. This required work to be conducted by the Office of Public Works in setting up the Inquiry Support Centre in Agriculture House, along with some adjustments to the layout of Committee Room 1 in LH2000 to facilitate the conduct of public hearings.

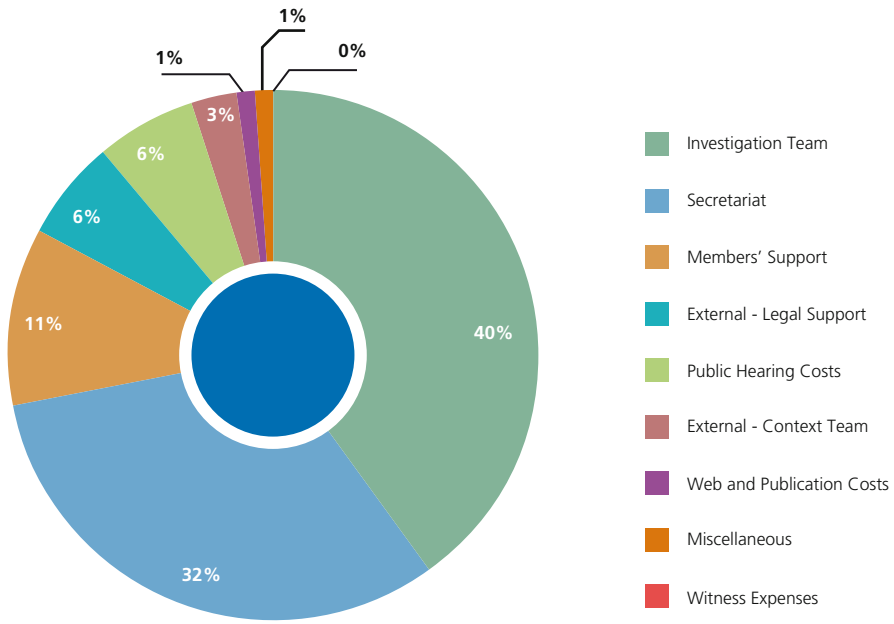
Figure 8.4: Inquiry set up, preparation and establishment estimated costs		**€000**
1	**Staffing and recruitment**	468
2	**External Legal Advice**	56
3	**ICT Systems development and set up**	369
4	**Accommodation fit-out**	174
5	**Miscellaneous**	3
	Total	**1,070**

8.21 The Inquiry running costs consisted in the large part of the salaries of support staff for the Joint Committee and members (some 83% of the total), along with external legal advice and public hearing costs.

Figure 8.5: Inquiry running costs (see figure 8.6 for graphic representation)		**€000**
1	**Inquiry Staffing**	**4,543**
	■ Secretariat and in-house legal team	1,742
	■ Investigation team	2,206
	■ Members' staff	595
2	**External Services**	**506**
	■ Context team	160
	■ External legal team	346
3	**Public Hearings costs**	**321**
4	**Web and Publication costs**	**65**
5	**Witness expenses**	**15**
6	**Miscellaneous**	**48**
	Total[65]	**5,498**

65 Costs Include all costs incurred to 31 December 2015 and addiional estimated costs to the date of reporting in January 2016.

Figure 8.6 Running costs of the Banking Inquiry by category



Appendices

Appendix 1: Context Phase Themes

Themes	Sub-themes				
1. Findings and recommendations of previous reports on the Banking Crisis	**a.** Honohan Report: The Irish Banking Crisis. Regulatory and Financial Stability Policy 2003-2008. (May 2010)	**b.** Regling & Watson Report: A Preliminary Report on the Sources of Ireland's Banking Crisis. (May 2010)	**c.** Wright Report: Strengthening the capacity of the Department of Finance (December 2010)	**d.** Nyberg Report: Misjudging risk: causes of the systemic banking crisis in Ireland. (March 2011)	
2. International, EU and Domestic Policy Contexts for the Banking Crisis	**a.** The impact of EMU: Euro entry, Emergency Liquidity Assistance	**b.** Sources of growth in Ireland in the 1990s and in the years prior to the banking crisis	**c.** Pre-crisis fiscal policy including Financial Stability Reports & ESRI Medium-Term Reviews	**d.** The European Commission's role in monitoring the Irish economy. IMF external monitoring and Reports on Ireland	**e.** Structures of an effective parliamentary democracy and how these should interact in the development of public policy and in providing oversight
3. Banking, regulatory and supervisory policy, systems and practices which may have underpinned the Banking Crisis	**a.** Principal types of banking regulation. International approaches to capital and liquidity regulation.	**b.** Nature of funding risk and capital risk built up at Irish banks	**c.** Principles-based regulation, including Basel, and alternative approaches	**d.** Influence of global financial events on capital inflows into Ireland and subsequent outflows during 2008-11	**e.**. The role of accounting standards in banking crises. The role of external auditors.
4. Early warnings, divergent and contrarian views	**a.** Warnings about the impact of credit growth	**b.** Warnings about international capital flows	**c.** Warnings about house prices	**d.** Warnings about commercial property exposures	**e.** The prevailing view that there would be a soft landing
5. The role of the media during the property boom in the lead-in to the Banking Crisis	**a.** Role in mainstream media for scepticism about sustainability of the housing boom or the broader economy	**b.** Business model and sources of revenue, including from the real estate sector (2002-2007)	**c.** Editorial policy on the economy and the property boom (2002-2007)		
6. Relationships between State authorities, political parties, elected representatives, supervisory authorities, banking institutions and the property sector	**a.** How the property sector and banking sector interacted with government, elected representatives and the State during the period prior to the banking crisis	**b.** Issues relating to the nature and functioning of the commercial real estate market in the period prior to 2008	**c.** The "Bacon reports" their recommendations and implementation	**d.** Tax policy towards housing and property development. Planning and development during the boom.	**e.** Development of the proposal to establish NAMA, including the options assessed and the conclusions reached

Appendix 2: Nexus Phase–Themes and Key Lines of Inquiry

Theme B: Banking Systems and Practices

THEME	Effectiveness of banks' board governance, client relationships and business models	Effectiveness of banks' credit strategies and risk management	Effectiveness of banks' funding, liquidity strategies and risk management	Impact of the property valuation methodologies on banks' credit risk management	Impact of the remuneration arrangements on banks' risk management	Impact of banks' internal audit processes in supporting effective risk management	Impact of banks' external audit processes in supporting effective risk management
	B1	**B2**	**B3**	**B4**	**B5**	**B6**	**B7**
LINES OF INQUIRY	**a.** Composition, skills and experience of the board and board subcommittees	**a.** Appropriateness of property-related lending strategies and risk appetite	**a.** Appropriateness of funding sources — the mix, maturity profile and cost	**a.** Adequacy of the valuation policies and assumptions to accurately assess loan security	**a.** Adequacy of the incentive and remuneration arrangements to promote sound risk governance	**a.** Effectiveness of internal audit oversight and communication of issues related to governance, property-related lending strategies and risks, and funding and liquidity risks	**a.** Impact of prevailing accounting standards in recognising risks
	b. Integrity of financial reporting	**b.** Appropriateness of credit policies, delegated authorities and exception management	**b.** Analysis of liquidity risks under adverse scenarios	**b.** Independence of the professional advisors in valuing property assets	**b.** Impact of shareholder or lending relationships in promoting independent challenge by the board and/or executives	**b.** Effectiveness of the oversight of the prevailing risk culture	**b.** Effectiveness of the external audit processes to identify and report to the board and management, any concerns related to significant risk exposures, including property, funding and liquidity
	c. Quality of the business model setting process	**c.** Analysis of risk concentrations in the base, the adverse economic scenarios and the impact on capital structure	**c.** Interest rate risk appetite setting and monitoring	**c.** Adequacy of internal controls over perfection of security and policy exceptions			
	d. Adequacy of board oversight over internal controls to ensure risk is properly identified, managed and monitored		**d.** Appropriateness of investment of liquid assets in government and/or other securities				
	e. Appropriateness, management and control of Client Relationship activities		**e.** Capital structure and loss absorption capacity				

Appendix 2: Nexus Phase–Themes and Key Lines of Inquiry

Theme R: Regulatory and Supervisory Systems and Practices

THEME	Effectiveness of the regulatory, supervisory and governmental regime structure	Effectiveness of the supervisory practice (Central Bank, Financial Regulator and Department of Finance)	Clarity and effectiveness of the nexus of institutional roles and relationships	Appropriateness and effective utilisation of the expert advice	Clarity and effectiveness of the Government and Oireachtas oversight and role	Relationship with and oversight by international stakeholders	Effectiveness of the policy and institutional responses post crisis
	R1	R2	R3	R4	R5	R6	R7
LINES OF INQUIRY	**a.** Appropriateness of the regulatory regime	**a.** The effectiveness of the use of supervisory powers	**a.** Awareness and clarity of roles and accountability amongst the regulatory and supervisory institutions of the state	**a.** Appropriateness of the expert advice sought, quality of analysis of the advice and how effectively this advice was used	**a.** Effectiveness of the Oireachtas in scrutinising public policy on the banking sector and the economy	**a.** Adequacy and impact of international organisations' oversight on banking regulation and supervision activity	**a.** Assessment of what has been done, work-in-progress and what remains outstanding from the recommendations of previous reports
	b. Effectiveness and appropriateness of the supervision policy and powers	**b.** Nature and effectiveness of the operational implementation of the macro economic and prudential policy	**b.** Nature and appropriateness of the relationship between the Central Bank (including the Financial Regulator), Department of Finance and the banking institutions	**b.** Impact of the reliance placed upon information and reporting from statutory auditors of the banks	**b.** Appropriateness of the advice from the Department of Finance to Government and the use thereof by Government	**b.** Quality and effectiveness of European policies and regulations	**b.** Assessment of whether further changes are required
	c. Appropriateness of the macro economic and prudential policy	**c.** Adequacy of the assessment and communication of both solvency and liquidity risks in the banking institutions and sector	**c.** Effectiveness of the communication between the Central Bank and the Department of Finance	**c.** Analysis and consideration of the response to contrarian views (internal and external)	**c.** Analysis of the key drivers for budget policy		**c.** Effectiveness of the current regulatory and supervisory structure
	d. Composition, skills, experience and number of resources at the Central Bank, Financial Regulator and Department of Finance				**d.** Appropriateness of the relationships between Government, the Oireachtas, the banking sector and the property sector		

Appendix 2: Nexus Phase–Themes and Key Lines of Inquiry

Theme C: Crisis Management Systems & Policy Responses

Effectiveness of the ECOFIN and Domestic Standing Group (DSG) (Central Bank, Financial Regulator and Department of Finance)	Role and effectiveness of the policy appraisal regime before and during the crisis	Appropriateness and effectiveness of the Department of Finance actions during crisis	Appropriateness and effectiveness of the domestic policy responses	Appropriateness and effectiveness of international Ireland-specific policy responses	Appropriateness and effectiveness of other EU-wide policy responses	Impact of the crisis on bank creditors
C1	C2	C3	C4	C5	C6	C7
a. Inter-departmental contact and the Memorandum of Understandings with other EU states on the issue of banking	**a.** Effectiveness of the CBI liquidity group under the Joint Financial Stability Joint Committee	**a.** Appraisal of the conditions prior to increasing the Deposit Guarantee Scheme	**a.** Decision to nationalise Anglo in 2009 and a review of the alternatives available and/or considered	**a.** European Union (EU)/ International Monetary Fund (IMF)/European Central Bank (ECB) programme of assistance	**a.** Basel III (CRD IV) and the impact on capital and liquidity of Irish banks	**a.** Options for burden sharing during the period 2008-2013
b. Formulation and reaction to crisis simulation exercises	**b.** Role of advisors in analysing the crisis (to include crisis management options)	**b.** Appropriateness of the bank guarantee decision	**b.** Establishment, operation and effectiveness of National Asset Management Agency (NAMA)	**b.** The liquidation of Irish Banking Resolution Company (IBRC), the promissory notes refinancing and the relationships with the ECB	**b.** Banking Union (Single Supervisory Mechanism, Single Resolution Mechanism, Deposit Guarantee Scheme)	**b.** Role of the euro zone and international partners in this decision
c. Role, responsibilities and objectives of the DSG	**c.** The liquidity versus solvency debate	**c.** Effectiveness of reviews of banks' loan books and capital adequacy	**c.** Decision to recapitalise Anglo, Allied Irish Banks (AIB), Bank of Ireland (BoI), Educational Building Society (EBS), Permanent TSB (PTSB) and the alternatives available and/or considered		**c.** Other – Fiscal Compact Treaty, Sovereign Debt Restructuring Mechanism	
d. Adequacy of the DSG process, including a consideration of the bank resolution legislation			**d.** CISA* – effectiveness of the actions to merge AIB and EBS, Anglo and INBS and deposit transfers ** Credit Institutions Stabilisation Act (2010)*		**d.** Role and influence of the ECB	
			e. Cost of the crisis and sharing of the impact			

Appendix 3: Banking Inquiry Operating Model

Process and protocols outlining how the Banking Inquiry was structured, managed and run

Contents

List of Abbreviations

DMS	Document Management System
FTI	Expert support team for the Context Phase
NOI	Notice of Intention to issue a Direction
TOM	Target Operating Model
ToR	Terms of Reference
RP	Relevant Proposal
WSP	Witness for public hearings / Witness statement for public hearings
WSW	Non-appearing witnesses / Witness statement from non-appearing witnesses
WSCB	Material clarification written statements requested by the Joint Committee on a voluntary basis
WSCL	Clarification statements received, including under section 25 of the 2013 Act

Inquiry Scoping and establishment

RELEVANT PROPOSAL PROCESS

EITHER Oireachtas own initiative (i.e. from an existing Committee) **OR Government initiated** (i.e. Committee established to prepare RP)

Joint Committee prepares Relevant Proposal for a Part 2 (Pt2) Inquiry and submits to CPP/s (of both Houses if proposal is for a Joint Inquiry Committee)

Dáil CPP considers Proposal and prepares Relevant Report

Seanad CPP considers Proposal and prepares Relevant Report

Dáil considers Relevant Report and agrees to establish Part 2 Inquiry

Seanad considers Relevant Report and agrees to establish Part 2 Inquiry

SCOPING OF INQUIRY → **EVALUATION OF PROPOSAL** → **APPROVAL AND ESTABLISHMENT**

RP CONTENTS

- Type of Pt 2 Inquiry
- Subject matter (relevant conduct, events, dates, location, persons)
- Whether relates to a function of the Dáil/Seanad/Houses
- Reason Pt 2 Inquiry is needed
- Why the proposing Committee should conduct the inquiry and the changes (if any) required to its TOR to allow it to do so
- Time schedule / phasing
- Changes required to legislation
- Draft Terms of Reference, including whether Cttee proposes to make findings of fact and requires compellability powers
- Other relevant matters

CPP CONSIDERATION

- Whether inquiry should be conducted
- If not, whether alternative action should be considered
- If yes, which Committee should conduct, and manner of conduct (s. 7, 8, 9, 10, 11 or 16)
- Terms of Reference for inquiry (including any proposed amendments to RP draft)
- Other appropriate matters

DÁIL / SEANAD CONSIDERATION (3 motions)

1) CPP relevant report
2) Terms of reference for inquiry (subject matter, persons, time period etc) **– must be in identical terms as between 2 Houses**
3) Inquiry Committee Orders of Reference (size, powers, reporting deadline etc)

Houses cannot pass or decline Terms of Reference Resolutions before considering relevant report.

Nexus Evidence Strategy

NEXUS - DOCUMENTATION SELECTION AND THE PROCESS OF LEGAL DIRECTION

Terms of Reference

- Powers to compel documentation in Inquiries Act (2013)
- Decision to utilise these powers based on:
  - Certainty of timescale
  - Nature of Documentation (Commercial Sensitivity etc.)
- Central Bank required additional legislation to provide a gateway for the release of documentation (S33ak of the Central Bank Act) and additional standing orders for both Houses
- Exemptions of provision of certain documents provided for in the Act (Cabinet confidentiality, Legal privilege etc.)
- Some participants agreed to provide the documentation required on a voluntary basis

Phase 1 Documentation identified

Institutions / Participants Identified

Compel through Direction

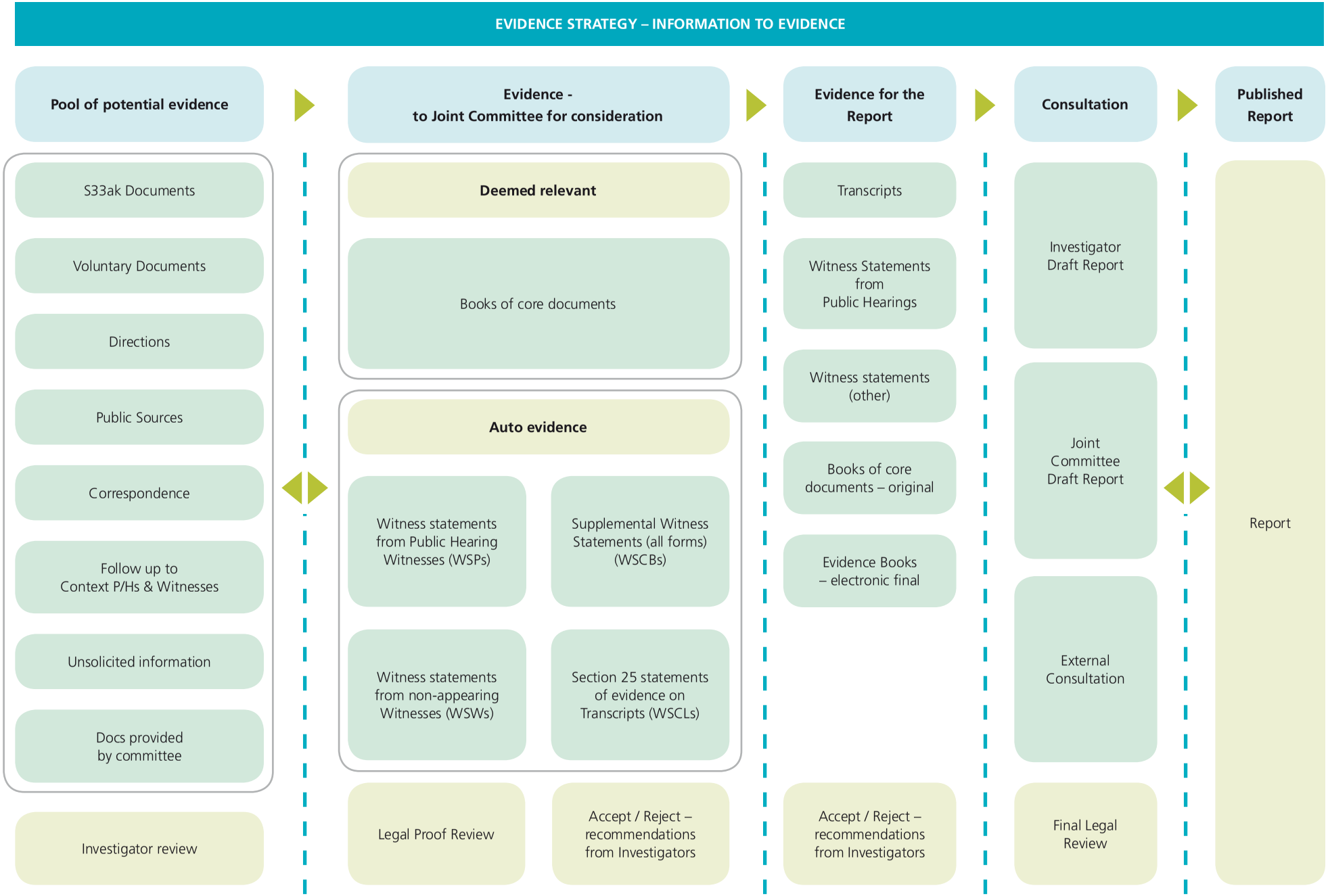
Issue of Notice of Intention to Direct Documentation	Minus 8 weeks prior to delivery date
Consider Submissions	Minus 6 weeks
Issue of Direction	Minus 6 weeks
Receipt of Documentation	In Phases over a 4 week period
Review and follow up requests on documentation provided	1 – 10 weeks after receipt

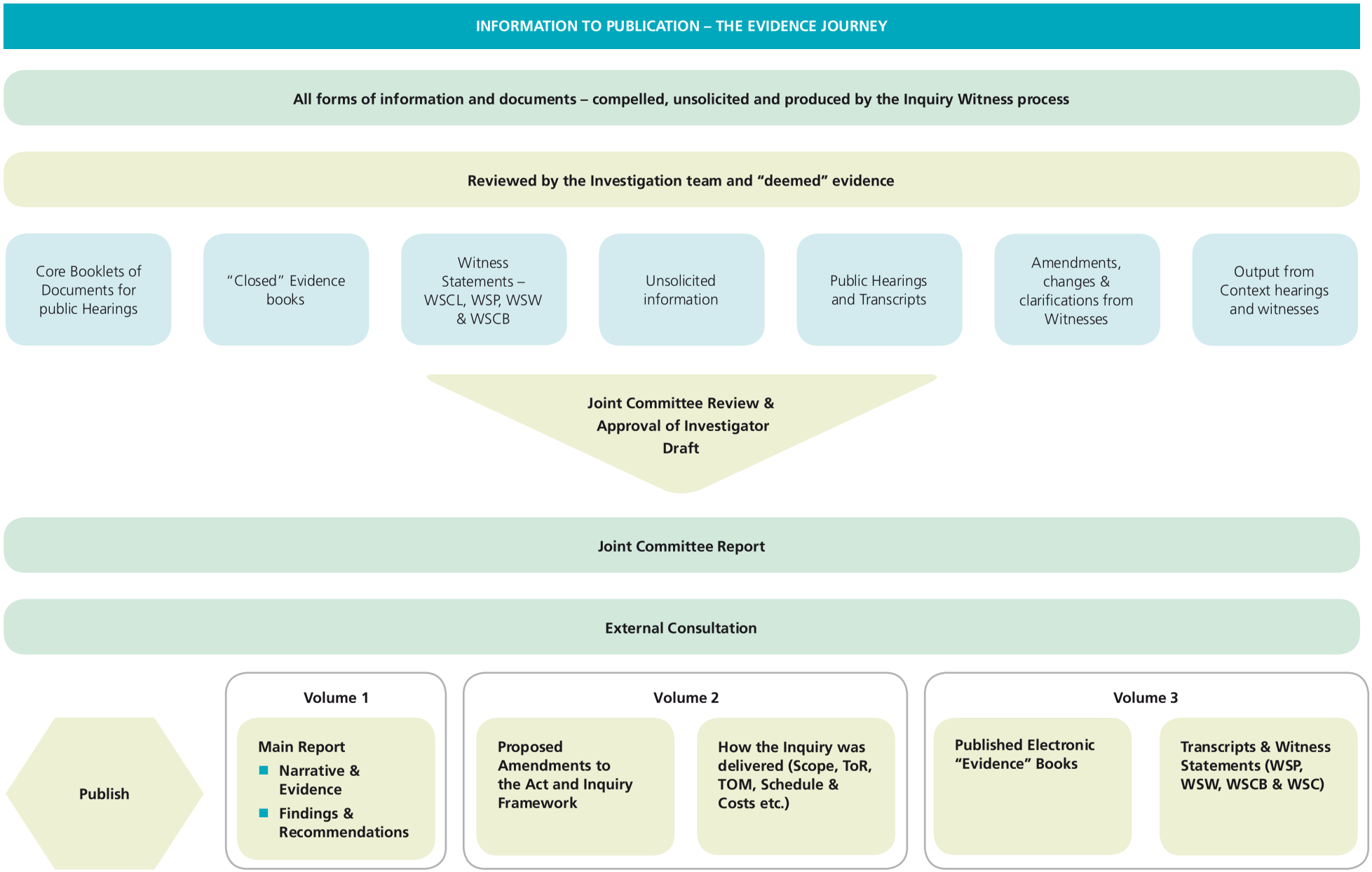
Themes & Lines of Inquiry confirmed

Phase 2, 3 & 4 Documentation identified

Institutions / Participants identified

Compel through Direction / or voluntary submission


EVIDENCE STRATEGY – INFORMATION TO EVIDENCE
Pool of potential evidence
Evidence - to Joint Committee for consideration
Evidence for the Report
Consultation
Published Report
S33ak Documents
Voluntary Documents
Directions
Public Sources
Correspondence
Follow up to Context P/Hs & Witnesses
Unsolicited information
Docs provided by committee
Investigator review
Deemed relevant
Books of core documents
Auto evidence
Witness statements from Public Hearing Witnesses (WSPs)
Supplemental Witness Statements (all forms) (WSCBs)
Witness statements from non-appearing Witnesses (WSWs)
Section 25 statements of evidence on Transcripts (WSCLs)
Legal Proof Review
Accept / Reject – recommendations from Investigators
Transcripts
Witness Statements from Public Hearings
Witness statements (other)
Books of core documents – original
Evidence Books – electronic final
Accept / Reject – recommendations from Investigators
Investigator Draft Report
Joint Committee Draft Report
External Consultation
Final Legal Review
Report


INFORMATION TO PUBLICATION – THE EVIDENCE JOURNEY
All forms of information and documents – compelled, unsolicited and produced by the Inquiry Witness process
Reviewed by the Investigation team and "deemed" evidence
Core Booklets of Documents for public Hearings
"Closed" Evidence books
Witness Statements – WSCL, WSP, WSW & WSCB
Unsolicited information
Public Hearings and Transcripts
Amendments, changes & clarifications from Witnesses
Output from Context hearings and witnesses
Joint Committee Review & Approval of Investigator Draft
Joint Committee Report
External Consultation
Publish
Volume 1
Main Report
Narrative & Evidence
Findings & Recommendations
Volume 2
Proposed Amendments to the Act and Inquiry Framework
How the Inquiry was delivered (Scope, ToR, TOM, Schedule & Costs etc.)
Volume 3
Published Electronic "Evidence" Books
Transcripts & Witness Statements (WSP, WSW, WSCB & WSC)

Witness Management Protocol

CONTEXT WITNESS MANAGEMENT PROTOCOL - WITNESS PUBLIC HEARING PROCESS (WSPS)

Witness Identification and selection by expert group and committee

Issue invitation to proposed Witnesses with scope of Inquiry

Seek Witness Statement in advance of Public hearing

Briefing from FTI on Witness and potential Questions

Lead Questioners Briefing

Public Hearing with publication of Witness Statement and transcript

Transcript, Witness Statement and any related documents to Investigation team

In summary:

- Witnesses identified based on material relevance to Terms of Reference (ToR)
- Voluntary Process
- Primarily commentators not "main players"
- Setting context and background to the crisis and time period
- Technical support provided by FTI
- Witness statements and Transcripts published on Banking Inquiry Website
- All deemed evidence for input into Nexus phase
- Included in Inquiry report and published evidence

Context - the numbers:

- 14 Weeks
- 18 Briefing sessions
- 34 Witnesses
- 14 Public Sessions

NEXUS - THE JOINT COMMITTEE PROCESS

Tuesday	Wednesday	Thursday
Investigator Briefing ■ 2 - 4 hours ■ Commencing 15.00	**Public Hearings** ■ 8 - 10 hours ■ Commencing 09.30	**Public Hearings** ■ 8 - 10 hours ■ Commencing 09.30

Nexus - the numbers:

- 22 Weeks (16 sitting and 6 non sitting)
- 66 Public Hearing Sessions
- 97 Witnesses for Public Hearings
- 18 Briefing sessions
- 47 Witnesses identified to provide Witness Statements only in addition to the public hearing witnesses

Joint Committee summary:

- Hearings to begin 22/04/15 and finish 10/09/15
- Briefings commence 31/03/15
- Based on three days a week for 16 weeks
- 6 Weeks not sitting (Week 1 June and August)
- Over 300 potential witnesses identified – complex due to tenure, range of institutions and lines of inquiry – required choreography
- Those who have relevant evidence but not called for Public Hearings, required to provide Witness Statements (WSWs)
- To increase the number of hearings, the options include 4 day weeks, finishing late into September and reduction of the non sitting weeks
- This was a legal process where witnesses were compelled – difficult to adjust and amend once the process has begun - once agreed the process is fixed
- Reading required outside of these sessions e.g. witness statements and books
- **Significant step up in activity** for all – both the Joint Committee and the Banking Inquiry Team
- Joint Committee continued to meet privately post September to consider, approve and consult on report drafts, evidence books and content

NEXUS WITNESS MANAGEMENT PROTOCOL - WITNESS PUBLIC HEARING PROCESS (WSPS)

Witness Selection & issue of Notice of Intention	Minus 8 weeks
Compel Witness – issue Direction	Minus 6 weeks
Witness Statement	Minus 4 weeks
Technical Briefing with Required Questions	Minus 3 weeks
Book of core documents	Minus 2 weeks
Final Briefing to Joint Committee & supplementary documents/statements	Minus 1 week
Public Hearing	Day 1

- Process begins with a recommendation from the Investigation team to the Joint Committee of the proposed 6 tranches of witnesses. This includes name, role, tenure, lines of inquiry, rationale and proposed date
- A letter to the Employer is issued where any witness is still employed by the Participant
- It requires flexibility as there will be revisions and exceptions:
  - number of times a witness will appear
  - rebuttal or witnesses unable to attend
  - witnesses invoking rights under the Act
- Section 24 process on witness statements
- The key differences between the Nexus and Context witness process are the:
  - legal compellability of witnesses
  - legal compellability of statements
  - requirement to produce and issue a book of core documents
  - intent to secure evidence in hearings and statements
  - need to cross reference for contrarian and confirming views
  - volume of witnesses
  - complexity (nexus) of their choreography due to inter – relationships, tenure and direct evidence of common events
- The schedule provides for roughly 97 witnesses
- This includes a mixture of individuals and panels

Publish Transcript and Witness Statement

NEXUS WITNESS MANAGEMENT PROTOCOL - WITNESS STATEMENT PROCESS FOR NON-APPEARING WITNESSES (WSWS)

- **47 WSWS** were agreed by Joint Committee (incl. 2 voluntary WSWs)
- They were compelled in six batches: A to F
- Notice of Intention NOI (-6 weeks) contains questions for witness and relevant core documents approved by the Joint Committee as is usual practice
- Questions emailed to Joint Committee members for comments / input before NOI is tabled for Joint Committee approval
- Joint Committee provided with table of contents (TOC) for electronic core booklets at same time as NOI – TOC provides Bates reference numbers to enable members to access documents on the DMS
- Submissions in response to NOIs provided to Joint Committee for consideration
- Directions issue at -4 weeks
- Batches issued weekly until June/July. Final batch of statements received by end-September
- Once statements received, they were reviewed by investigation team and legal brought to the Joint Committee for acceptance and publication as evidence
- **Publication recommendations will go to the Joint Committee in 2 batches – August and October**
- Once accepted by the Joint Committee, statements were published on website. By exception, further WSWs to be identified from testimony

NEXUS WITNESS MANAGEMENT PROTOCOL - THE INVESTIGATOR BRIEFING PROCESS (ANY ONE SESSION)

A. (Minus 2 or 3 week)

A. First briefing on scheduled witnesses (Minus 2 or 3 weeks):

- Investigator briefing included:
  - Key lines of inquiry / answers sought
  - Book of core documents – all documents to be relied on in hearings (including from the Joint Committee)
  - Witness Statements
  - Key questions
- General briefing to the Joint Committee on participant
- Recommendation of category of Witness and question format
- Joint Committee questions to be provided to Legal and Investigators – minimum 2 weeks before hearing to be provided
- Joint Committee sourced documents to be provided at minus 4 weeks to be included in book of core documents - required if a committee member intends to rely on these in hearings

B. (Minus 1 week)

B. General update on Public Hearing (minus 1 week):

- The **required** 12 (or so) questions per session for evidence with time proposal for public hearings and other suggested questions for the Joint Committee to consider
- Any amendments as a result of Oireachtas redactions, or statements and section 24 supplementary statements as a result of correspondence with criticised third parties
- Any amendments to witness statements as a result of issue of books of core documents
- Lead Questioners (LQs) allocated and members to indicate interest in Category 3 witnesses
- Any emerging documents
- Provision of supplementary Evidence book

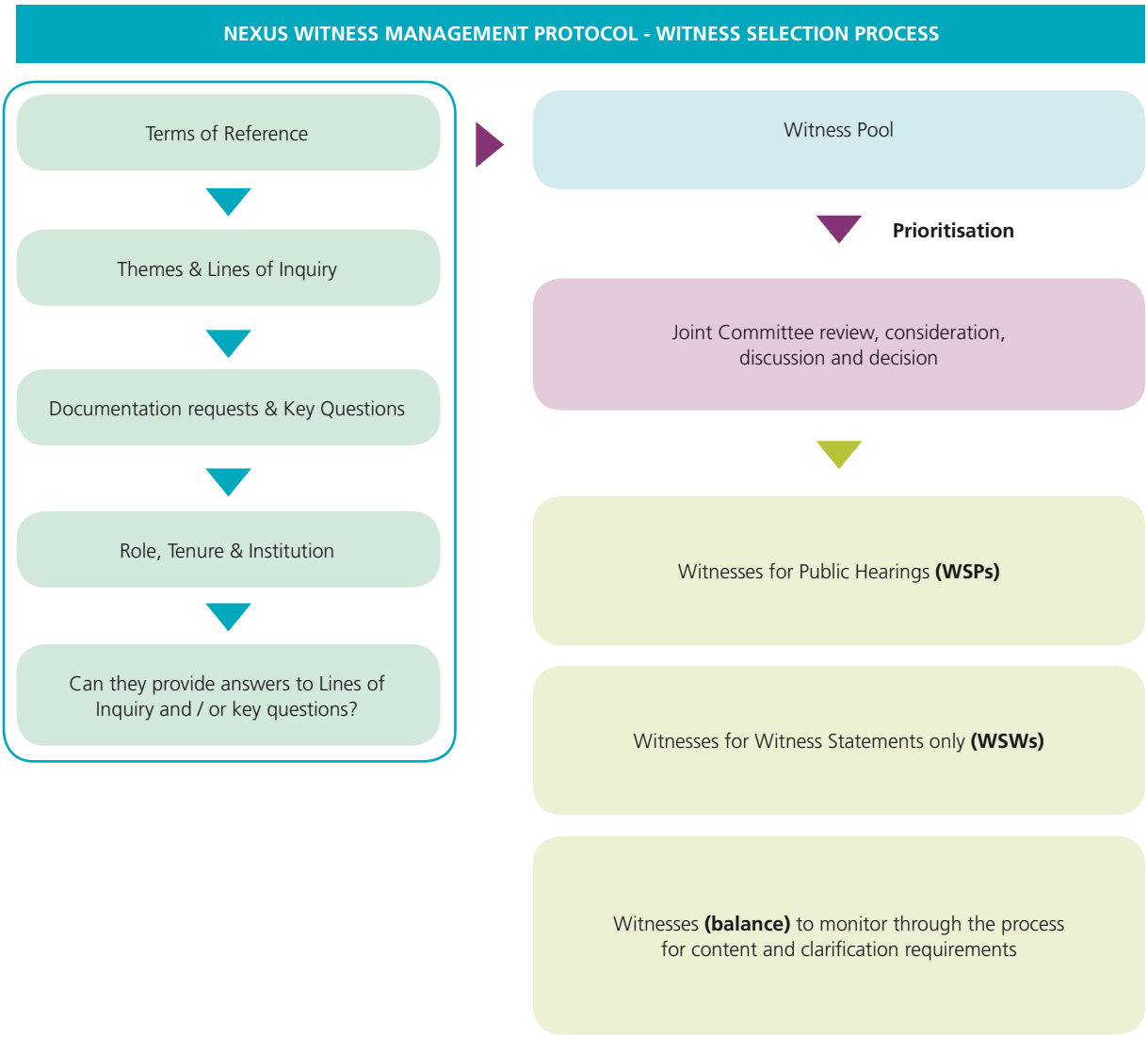
C. (0 weeks)

C. General Updates from the Investigation Team (for example):

- Lead Questioners allocations / briefing
- Next tranche of Nexus witnesses (WSP) / witness statements (WSW)
- Notice of Intentions / Directions / Submissions
- Clarifications
- General correspondence

Nexus Joint Committee Briefing

2 – 4 hours a week


NEXUS WITNESS MANAGEMENT PROTOCOL - WITNESS SELECTION PROCESS
Terms of Reference
Themes & Lines of Inquiry
Documentation requests & Key Questions
Role, Tenure & Institution
Can they provide answers to Lines of Inquiry and / or key questions?
Witness Pool
Prioritisation
Joint Committee review, consideration, discussion and decision
Witnesses for Public Hearings (WSPs)
Witnesses for Witness Statements only (WSWs)
Witnesses (balance) to monitor through the process for content and clarification requirements

Nexus Public Hearings

NEXUS PUBLIC HEARINGS PROCESS SUMMARY

General principles:

- Average 3 hour session
- All Joint Committee members and Chair to participate in questioning of all witnesses
- Lead Questioners (x 2) for each Witness - additional time to explore main topics
- Lead questioners rotation schedule
- Differential approach based on witness, topic and materiality of witness including:
  - Multiple sessions for one witness
  - Panels
  - Split Sessions
- Split sessions maximised by agreeing approach of two options:
  - All Joint Committee members and Chair to question witness but less time allocated per member and option for member not to question if topic has already been appropriately covered
  - 5 members and Chair to question only on behalf of the committee
- Mix of compelled and voluntary witnesses
- Witnesses and Joint Committee members to receive books of Core Documents in advance of hearing which will form the basis of questions
- Opening statement to be a summary of Witness statement – **not** additional commentary
- Technical briefings from Investigation team include "required questions" for members to explore for the Report (to comprise 50% of the session):
  - intent is to retain focus on ability to explore same issues across multiple witnesses
  - identify affirming and contradictory oral evidence
- Members to be aware of potential conflicts of interest and withdraw from questioning relevant witnesses

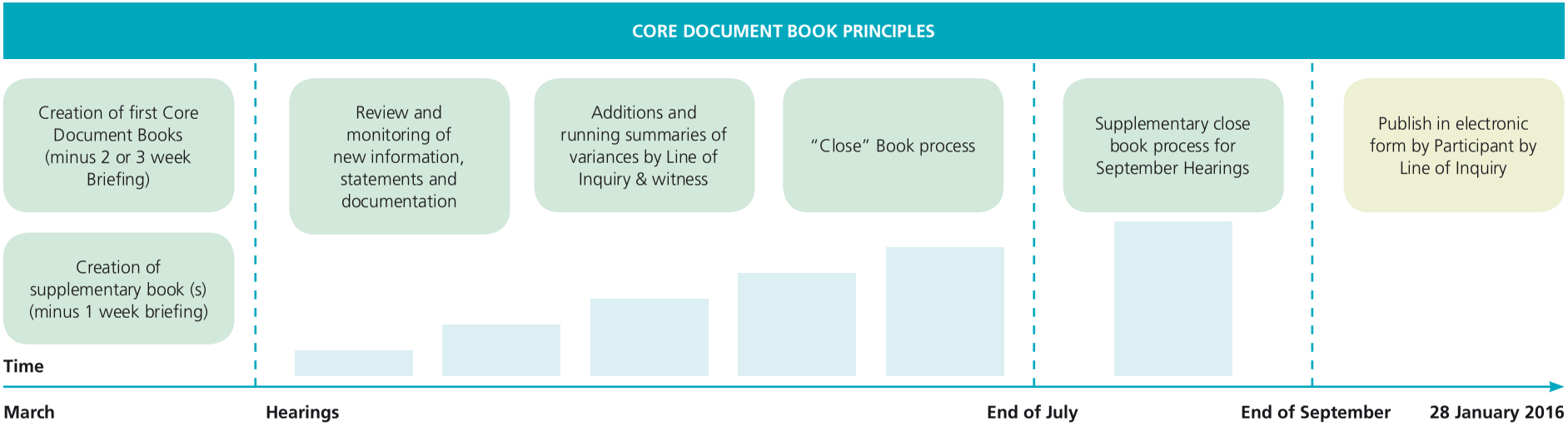
SECTION 24 / SECTION 25 – THE PROCESS

- Legal Team review:
  - Witness statements
  - Transcripts
- Consideration of fair procedures
- Opportunity to respond if there is a reasonable possibility of their name (person or institution) being impugned
- Provide the mechanism / opportunity of response

Section 24	Section 25
Legal Identify person / institution whose good name may be impugned – they have a right to know of the evidence proposed to be given against them in advance of publication or hearing.	Joint Committee identify after a hearing where it is necessary, having regard to fair procedures, to furnish a transcript to a person
Inquiry team Issue letter to affected person / institution attaching a copy of the statement.	Inquiry team issue letter to affected person / institution enclosing a copy of the transcript
Responses from affected parties dealt with on case by case basis by Joint Committee. Options under Act include: ■ Give evidence to the Joint Committee to answer the allegation ■ make a submission at the close of evidence	Options under Act: ■ Submit statement to the inquiry ■ Given oral evidence to the inquiry ■ Have other persons appear to give evidence

- Investigation team review submitted content and make recommendation to Joint Committee
- Joint Committee consider statements and/or correspondence arising from these processes
- Statements are published on Joint Committee Website

Close Book Process



Principles

- Final "evidence books" will be electronic versions **not** printed
- Structured by Participant by Line of Inquiry **(20 Books)**
- Core booklets of documents printed for the public hearings (c120) provide the starting point but require additions – assumption is that the electronic book of documents will grow over the public hearing process – requires a "close book process" to complete
- Close book process:
  - Identification of possible Report Filters and potential "Findings of Fact"
  - Identification of material and relevant contradictions and affirmations of key facts
  - Clarification of facts and circulation of additional relevant documents with Witnesses (existing WSPs and WSWs) (if material to report content)
  - Default is to secure additional written statement **(WSCBs)** on a **voluntary basis** - exceptional cases only would require rebuttal in further public hearings
  - Complete reading and compliance activity with participants
  - Complete and include all **20** separate witness content management processes
- Process ran from end of July to mid-October – but:
  - core content completed from July to September (sweep up for September public hearings)
  - "wrap up" complete all non-core processes from October to mid-January
- Additional Legal proofing required before publication and deemed as "evidence"
- This final "evidence" requires approval by the Joint Committee as part of the Report approval process
- Once closed these will be maintained in electronic form until submitted to the committee and ultimately published on the Inquiry Website
- Additional considerations:
  - Public Archive / Public Interest Documents
  - Destruction, retention or deletion of documents not deemed evidence or subject to s33ak

CLOSE BOOK PROCESS - KEY CONTENT ELEMENTS

Document Review	Public Hearings - Transcripts and WSPs	Witness Statements for non-appearing witnesses – WSWs	Close Book Review & WSCBs	Report	Wrap up
■ Directions ■ Compliance ■ Unsolicited ■ Witness submissions ■ Documents provided with Witness statements ■ Public Documents ■ Documents referred to in hearings by Joint Committee or Witness not in books ■ Exceptional documents	■ Section 24 & 25 ■ Core Booklets ■ Witness Statements ■ Supplementary statements (on receipt of books) ■ Transcripts ■ Clarifications and updates ■ Joint Committee additional documents ■ Exceptional Documents ■ Unsolicited comments from Third Parties on testimony	■ Directions ■ Witness Statements ■ Legal and Investigation review ■ Joint Committee Review and approval ■ Web Publication ■ Clarifications and updates ■ Consideration for Public hearing	■ Consideration of all "relevant" documentation ■ Review against material clarifications ■ Review of all additional documentation and transcripts ■ Creation of 20 Electronic evidence books ■ Inclusion of September hearings as a supplemental process	■ Framework and filters ■ Content and structure ■ Appendices, chapters and footnotes to electronic books ■ Review and recommendations for TOM, Act and Administration ■ Publication to Houses and on Web	■ DMS Upload of all content including correspondence and unsolicited content ■ Web publication of all agreed material

Key Outputs

20 Electronic books	Additional Witness Statements (WSCBs) and (WSCLs)	Indexes of Transcripts, Witness Statements and Books	Single Inquiry Data repository and Web access

EVIDENCE MANAGEMENT PROCESS – THE "WITNESS CONTENT" THE JOINT COMMITTEE WILL CONSIDER

Witness Statements for Public hearings **(WSPs)**	Transcripts from Public Hearings	Witness Statements for non-appearing witnesses **(WSWs)**	Section 24 responses to notifications (Good name)
A	**B**	**C**	**D**
Section 25 statements of evidence (Clarifications to public hearing transcripts)	Solicited clarifications / updates from appearing Witnesses by the Joint Committee	Supplementary statements by Witnesses on receipt of evidence books (Minus 2/3 & 1 weeks)	Supplementary clarifying statements from Witnesses as a result of the close book process
E	**F**	**G**	**H**
Clarifying Statements **(WSCBs / WSCLs)**	Unsolicited comments on all statements from appearing witnesses and third parties	Exceptional Documents sent to Witnesses	Documents referred to by committee or witnesses in hearings (not in core books)
I	**J**	**K**	**L**
Documents sent in by Witnesses linked to statements	Booklets of Core Documents for public hearings	Employer letters and any substitutions	General correspondence
M	**N**	**O**	**P**

- Requirement for Joint Committee "approval" or "acceptance" of all "documentation" to be relied upon
- Not all documents will be accepted or published by Joint Committee
- DMS - will be the single end repository for all documentation
- All documents above will be considered for publication by Joint Committee

Report

INQUIRY REPORT TIMETABLE

Design	Drafting		Joint Committee Consideration	External Consultation and Joint Committee review		Printing, circulation, debate and publication	
Joint Committee sign-off of report structure	Material contradictions and clarifications sought and assessed	Working draft	Working Draft to Joint Committee and consideration of Members amendments	Draft to certain persons (min 2 weeks for response)	Final report to Joint Committee and Joint Committee sign-off	Report printed and delivered to Clerks for circulation to members	House motions: Report and other docs published
7 July 2015 & 7 October	August – 15 November		16 November – 10 December	11 December – 28 December	29 December - 25 January 2016	27 January 2016	

Public hearings end on 10 September

Consideration of structure, style, drafting templates

Findings of Fact against Individual or Institutions

- Needs to be non-contradicted
- Cross referencing of relevant documents, and new transcripts essential
- Additional review and process required
- WSCBs sought **(voluntary) – no certainty of receipt** - 4 week period
- Issued 28/08/15 & 2/10/15

Member amendment process

- Informal private sessions with Members to review draft Report
- Formal Joint Committee meeting to amend and sign-off Report
- Requires Joint Committee "agreement"

Statements can be submitted requesting

- Omissions due to commercial sensitivity
- Amendments on grounds of lack of fair procedures, inaccurate, misleading, or irrelevant findings, inappropriate to evidence, non-compliance with the Act

Joint Committee consideration of statements and decision to amend Report or decline to amend Report

- Houses not sitting and close to Christmas
- Need to allow for standstill period: 21 days

- **Joint Committee is not empowered to print Report without the approval of the Houses**
- **Houses need to be sitting to "receive" the Report and pass resolution to publish**

EXTERNAL CONSULTATION PROCESS

External Communication of relevant content

Post Joint Committee sign off of the draft report, the Act requires the draft to be given to certain persons (s35)

Inquiry team review changes & amend Third Party consultation list

Letters and report extracts prepared & issued providing for written submission or statements - 14 day statutory period

Inquiry team respond to queries and clarifications from third parties

Inquiry team review written submissions / statements, consolidate and make recommendations on each

Issue Consultation Notices

Joint Committee private session for review and consideration of Submissions

s 38 (1) and s 39 (1) & (2)

Joint Committee consideration of recommendations (investigator/legal) on third party submissions and statements

Joint Committee may:

- hear further evidence (if appropriate)
- decide to amend report
- decline to amend report

If Joint Committee decide to amend the draft report, the revised text will be made available in Ag House

Review & decide on submissions

Issue of Joint Committee decisions on third party submissions and 21 day standstill

s 39(4)

Joint Committee pre-approval of final Report text (subject to standstill)

Letters issued to third parties notifying them of Joint Committee decision – 22/12/15

Standstill period: 21 days from date of receipt of Joint Committee letters

Decision notification & standstill

CRIMINAL OFFENCE TO DISCLOSE

Any person who is given a draft report under s 35 shall not disclose it or divulge that it has been given without prior written consent or they will be guilty of a criminal offence

FINAL APPROVAL PROCESS AND HOUSE(S) APPROVAL TO PUBLISH

Final review and sign-off of report for printing	Printing and delivery to Leinster House	Houses approvals, publication and launch
Inquiry team review any correspondence received in standstill period	Final review of proofs by team	Motions in both Houses to permit publication of report
Joint Committee meeting to consider correspondence during standstill period (if required)	Delivery of boxed reports to Clerks of the Houses	Report laid before Houses and web-published
Report signed off for printing and sent to printers	Clerks circulate report to members of both Houses and notify Chairs of both Houses	Press launch
Final sign-off	**Printing**	**Publication**

Joint Committee is not empowered to publish report without a Resolution of the Houses: s. 40(1) - Dáil Standing Order 107G and Seanad Standing Order 103L:

- The Joint Committee's final report shall "first be sent to the Clerk [of the Dáil/Seanad], who shall as soon as is practicable, arrange for its circulation to members".
- Where members have been circulated with such a report by the Clerk .....where the report is a final report.... the [Dáil/Seanad] "shall order that the report be laid before the [Dáil/Seanad] and made public".

Publication, Archiving and Retention

PUBLICATION – STATUTORY OBLIGATIONS AND CONTENT CONSIDERATION

The Inquiries Act 2013 obligation re publication:

Section 33(1) provides as follows: "Subject to subsections (2) to (5), the committee shall, on the conclusion of the Part 2 inquiry, prepare and give to the House a final report in writing, based on the evidence received by the committee, setting out the evidence and the findings of facts (if any), including of relevant misbehavior, made by the committee in relation to the matter the subject of the inquiry and (if the terms of reference for the inquiry so permit) such recommendations (if any) as the committee considers appropriate."

The publication of the report and associated documents is the single key output for the Inquiry. The archiving and retention of this report and general inquiry documentation also required consideration. The possible content, elements and processes were reviewed against a variety of considerations including:

- Original relevant proposal
- Terms of reference
- Legal advice
- Section 33ak obligations
- Evidence directly referenced in the report
- Oireachtas publication and archiving obligations
- Brevity and size of hard copy
- Time and resources available
- Future use and access requirements
- **… and the public interest**

WHAT WILL BE PUBLISHED AND HOW - 3 VOLUMES

Volume 1 - Main Report

- Chairman's Introduction
- Findings and Recommendations
- Chapters 1 – 11
- Appendices

Hard copy | Web-publish | Lay before Houses

Volume 2 - Inquiry Framework

- Chair's introduction
- Summary of Recommendations
- The Banking Inquiry in Numbers
- Constitutional and Statutory Framework for Oireachtas Inquiries
- Challenges specific to the Banking Inquiry
- Inquiry Phases and Operating Model
- Use of Directions by the Inquiry
- Resourcing the Inquiry
- Appendices

Web-publish | Lay before Houses

Volume 3 – Evidence

A: Core documents:

- 20 electronic documentation evidence books - by Institutional participant by Line of Inquiry
- c 15, 000 pages - content will include:
  - Majority of documents in the core booklet of documents from hearings
  - Documents provided by witnesses with witness statements
  - Documents identified generally and referred to Investigators (e.g. General correspondence)
  - Additional documents referenced in public hearings by Joint Committee or witnesses
  - Public documents sourced for Report
  - Footnote references or used as "evidence" in the Report

B: Witness Statements:

- Context & Nexus Public hearings **(WSPs)**, Non appearing witnesses **(WSWs)** & Section 25 & other clarification statements **(WSCLs) &** Material Clarification Statements **(WSCBs)**

C: Public hearing transcripts:

- List of Joint Committee meeting dates, witnesses and associated transcripts

Web-publish | Lay before Houses (excluding transcripts)

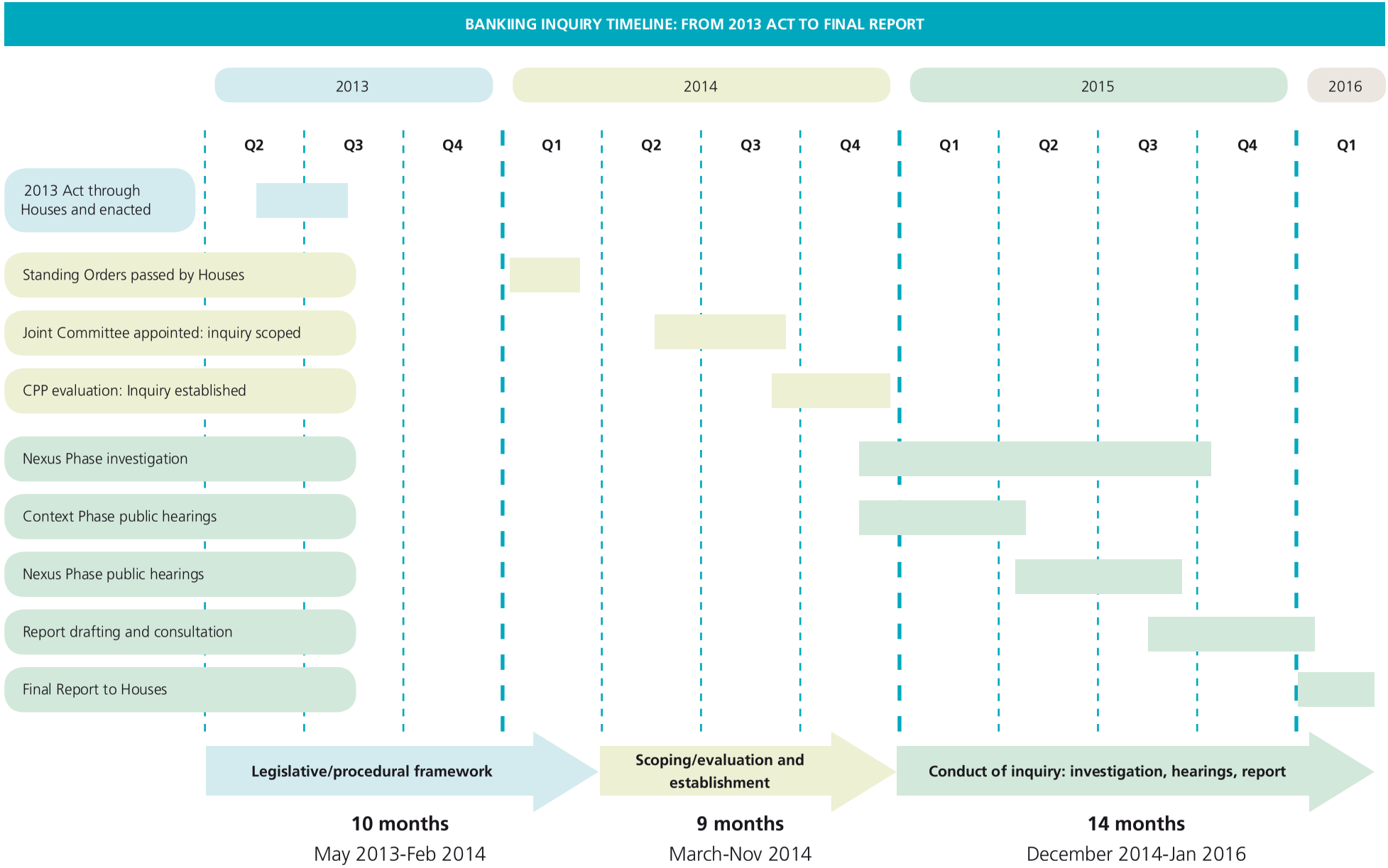
ARCHIVING & RETENTION FRAMEWORK PROPOSAL

A: Report – Volumes 1, 2 & 3	**Category A:** **Publish and retain in permanent archive**	■ Volume 3 of Report will contain **15,000 pages of documents** ■ All docs will be legally proofed for publication
B: Central Bank Section 33AK Documents	**Category B: Retain securely on DMS under strict access protocols for 12 months, then destroy or return**	■ **Category B docs are held separately from all other docs on the DMS. These can never be published.** Statutory gateway closes when Joint Committee dissolves. To be retained securely on DMS for 12 months as a contingency, then destroyed or returned
C: Documents & Witness Statements held on DMS which have been published as Vol 3 of the report **D: Other documents not published** **E: Correspondence** **F: Other (including minutes)** **G: Unredacted versions of docs & statements published in Vol 3**	**Categories C to G:** **Retain securely on DMS under strict access protocols for an indefinite period.** **CPPs to decide on retention policy as part of establishment Parliamentary Archive (2016-17 project)**	■ **Category C docs have already been published and archived as Report Vol 3.** Copies held on the DMS can be considered for deletion as part of archiving policy project ■ **Category D docs =** up to **500,000 pages** - These are documents which were not considered relevant or of evidential value for the final Report. Have not been legally proofed for publication or for s33AK content ■ **Category E and F docs** are to be retained in line with Oireachtas general retention policy ■ **Category G docs** – approx 229 witness statements and up to 20,000 pages of Vol 3 docs will be published as Vol 3. Only a small % of content has been redacted. Redactions were carried out in accordance with legal advice. Legal review and advice **must be obtained** before any such redacted material can be considered for release

GENERAL RULES

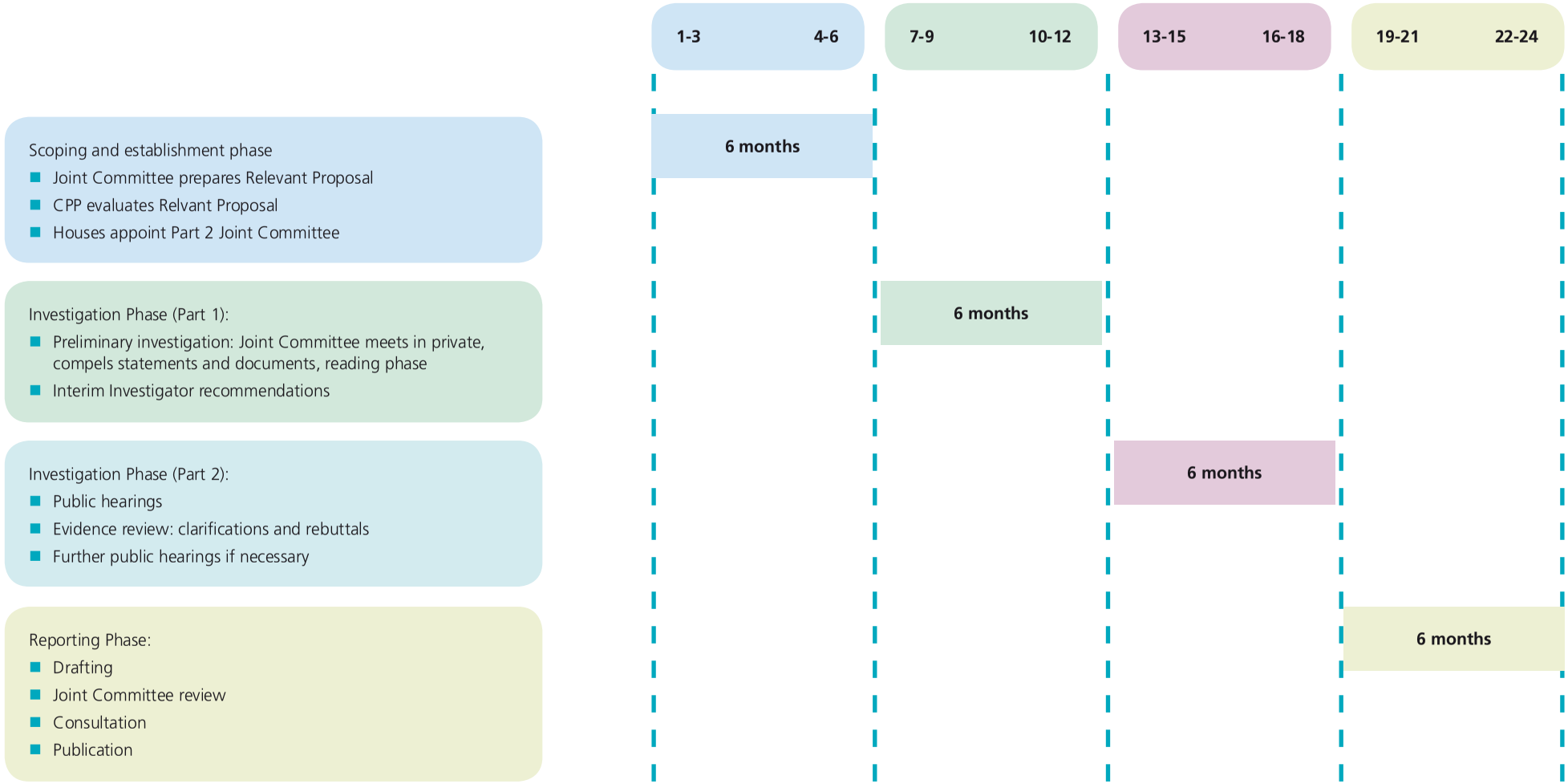
- Copies should be destroyed on expiry of retention period, but **originals** to be returned to provider where applicable
- "Custody" of all documents and papers **transfers from Joint Committee to Clerks of Dáil and Seanad** on dissolution of the Dáil
- **Houses of the Oireachtas (CPPs and Commission)** should determine **retention policy and access protocols** in context of establishment of Parliamentary Archive in 2016/17

Timelines and Milestones



Timelines and Milestones

PART 2 INQUIRY TIMELINE: OPTIMUM SEQUENCING AND TIMELINE



- This highlights the optimum sequence and timing for a Parliamentary Inquiry
- This sequence seeks to maximise the different phases and ability to "investigate" and then "challenge" in public forum
- Provides opportunity to focus on different phases and not run in parallel - thereby reducing risk on Inquiry process

Appendix 4: Banking Inquiry Memorandum of Procedures

Memorandum issued with all Notices of Intention to issue a Direction

These procedures are intended to set out for witnesses the methods to be operated by the Joint Committee of Inquiry. If there are any queries in respect of the procedures, enquiries should be addressed to *biwitnessmanager@oireachtas.ie*.

BACKGROUND

The Banking Inquiry has been established to address the reasons Ireland experienced a systemic banking crisis, including the political, economic, social, cultural and financial behaviour and factors involved in these which impacted on or contributed to the crisis by investigating relevant matters relating to banking systems and practices, regulatory and supervisory systems and practices, crisis in management systems and policy responses and the preventative reforms implemented in the wake of the crisis.

The Inquiry has been divided into two phases. Public meetings for the context phase ran from January 2015 to April 2015, with public meetings for the nexus phase commencing from 22 April 2015.

CRIMINAL PROCEEDINGS

Certain criminal proceedings on matters involving personnel in the banking sector have been scheduled to take place in the near future. The enclosed document dated the 11th February, 2015 lists relevant upcoming hearings. Due care must be taken to ensure that no prejudice is caused to these hearings. The enclosed list has been provided to the Joint Committee of Inquiry into the Banking Crisis by the DPP. The DPP has consented to the Joint Committee forwarding same to you with the proviso that it is for guidance purposes only and is being disclosed on the strict understanding that it will be retained by you for the purposes of aiding your compliance with the Houses of the Oireachtas (Inquiries, Privileges and Procedures Act 2013 ("the 2013 Act"). This document must be treated as confidential and used only in connection with your interaction with the Joint Committee.

The Joint Committee will not examine allegations of criminal activity against any named individuals or organisations either in Ireland or in other jurisdictions.

WITNESS STATEMENTS

All persons considered relevant to the Joint Committee's lines of inquiry or themes arising therefrom will be requested to furnish written statements to the Inquiry.

All written statements will be treated as evidence for the purposes of the Inquiry and may be relied upon by the Joint Committee in making findings in the final report.

The Joint Committee reserves the right to call any person who has furnished a written statement to give oral evidence before the Joint Committee.

All statements received by the Joint Committee will be published on the website of the Joint Committee after due consideration by the Joint Committee.

Prior to publication, the Joint Committee will consider whether any statement potentially affects the right to the good name of any person and will furnish such a person with the statement and permit them a specified period to furnish any response thereto in writing. If a person intends to exercise such rights, they should notify the Joint Committee via *biwitnessmanager@oireachtas.ie.*

If a statement is furnished with allegations which are irrelevant to the lines of inquiry directed to be dealt with and/or contains allegations of a criminal nature, the Joint Committee may request the person to furnish a new statement and/or reserves the right to redact such portions of the statement as the Joint Committee considers irrelevant or prejudicial.

All statements should have annexed thereto any documents considered relevant by the witness, both in the context of the written statement and for the purposes of a public meeting that the witness will be required to attend (where relevant).

The Joint Committee reserves the right not to receive any additional documents after receipt of the statement unless it can be shown that the witness could not have reasonably contemplated the relevance of the document at the time of the making of the statement.

All witnesses are asked to confirm in their written statement that any documents provided are true and accurate and whether they are or are not in the public domain.

FURNISHING TRANSCRIPTS

In the case of oral evidence given in public meetings, the Joint Committee will consider whether it is appropriate, having regard to fair procedures, to furnish a person identifiable in that oral evidence with a transcript of the relevant meetings. If it does furnish a person with a transcript of the meeting it will permit them a specified period to furnish any response thereto ("the Section 25 Statement"). If a person intends to exercise such rights they should notify the Joint Committee via *biwitnessmanager@oireachtas.ie.*

A Section 25 Statement furnished by a person in response to such a notification will be published on the website of the Joint Committee after due consideration by the Joint Committee. In general it is not intended to disseminate such Section 25 Statements to parties who are named or identifiable in the statement but the Joint Committee reserves the right to do so.

CORE DOCUMENTS

The Joint Committee intends to compile a Booklet of Core Documents relevant to the lines of inquiry and/or themes each witness is being asked to address.

All witnesses will be furnished with these documents at least fourteen days prior to the date fixed for the meeting which they are scheduled to attend. Persons who in the first instance are only providing a written statement will also be provided with Booklets of Core Documents and a set of questions relating to the lines of inquiry on which they are being asked to provide a statement.

If on foot of receiving a Booklet of Core Documents, an issue arises in relation to a witness statement previously submitted, the affected person may submit a supplemental statement on a voluntary basis that is limited to matters arising from those documents. This statement should be of

a reasonable length and as such it is recommended that it is no longer than 2,000 words. Any such supplemental statement should be submitted not later than 10 days after the receipt of the Booklet.

The Joint Committee reserves the right to add to the core documents at any time including by issuing a supplemental Booklet of Core Documents. If a supplemental Booklet is issued to a witness attending a public session, they will generally be furnished with this one week in advance of the scheduled hearing date and if there are any issues arising in relation to a statement previously submitted, that witness will be afforded an opportunity to address those issues at their oral hearing. Any such opportunity must be limited to the matters arising from the supplementary Booklet.

The core documents are intended to be used for the purpose of examinations at the oral hearings. They will form a part of the evidence to be considered by the Joint Committee and may be relied upon by them in making findings in the final report. The documents included in the core booklet will be put to the witnesses in the course of the hearings however witnesses are not required to admit the veracity of these documents or their content.

If any core document furnished to a witness requires that witness to furnish a document not annexed to their statement, the Joint Committee will accept same provided its relevance can be established.

The Joint Committee reserves the right to add to the core documents at any time.

All Booklets of Core Documents will be published on the Banking Inquiry website as soon as the Joint Committee deems it appropriate to do so.

The Joint Committee reserves the right to redact any documentation or part thereof or to publish a summary version of any documentation if there are matters contained therein which are not appropriate to publish.

NOTE: In relation to documents if you are submitting same, you are being asked by the draft direction to fill in the Metadata sheet which will be provided to you electronically in due course. Witnesses may submit their statement, accompanying documents and the Metadata sheet by email to *biwitnessmanager@oireachtas.ie.*

AFTER THE SUBMISSION OF EVIDENCE

Upon the completion of a witness's oral evidence and subject to any clarification and/or elaboration requested by the Joint Committee at the hearing, the Joint Committee will not engage in further correspondence and/or accept further material/statements from any witness who has given their evidence.

The Joint Committee will not, unless there are wholly exceptional circumstances, entertain a request from any witness to be recalled to give further oral evidence in order to elaborate or explain, alter or reject any of their previously given evidence.

Similarly the Joint Committee will not engage in further correspondence with or accept further / material statements from persons who in the first instance are only providing a written statement after they have provided that statement.

The above does not affect the rights of any witness under the provisions of the Houses of the Oireachtas (Inquiries, Privileges and Procedures) Act 2013.

EXCEPTION TO THE PROCEDURES

These procedures may, at the discretion of the Joint Committee, be altered, departed from or varied if the Joint Committee is satisfied for good reason, that such alteration, departure or variation is necessary and/or appropriate, including the nature of the matter arising, the urgency of the matter, and with the consent of all or any person affected by the matter, provided always that any such alteration, departure or variation does not contravene the 2013 Act.

AMENDMENT OF THE PROCEDURES

These procedures may, in the discretion of the Joint Committee be amended and revised as appropriate, provided always that any such amendment or revision is in compliance with the 2013 Act.

DISCLAIMER

Please note these procedures do not contain and are not intended to represent legal advice. You are referred to the terms of the 2013 Act and the other documentation furnished to you and you may wish to obtain legal advice.

Appendix 5: Witness Lists

- Context Phase public hearing witnesses
- Nexus Phase public hearing witnesses
- Non-appearing witnesses
- Material clarification statements

APPENDIX 5.1 Context Phase: Public Hearing Expert Witnesses

Theme 1: Previous reports on the banking crisis	
Date of Hearing	**Name**
21 January 2015	Klaus Regling
15 January 2015	Patrick Honohan
11 March 2015	Patrick Honohan
17 December 2014	Peter Nyberg
18 December 2014	Rob Wright
Theme 2: International, EU and domestic policy contexts	
Date of Hearing	**Name**
11 March 2015	David Farrell
18 February 2015	Donal Donovan
11 February 2015	John FitzGerald
18 February 2015	Marco Buti
05 February 2015	Mario Nava
11 March 2015	Niamh Hardiman
21 January 2015	Philip Lane
26 February 2015	Terrence McDonough
Theme 3: Banking, regulatory and supervisory policy	
Date of Hearing	**Name**
25 February 2015	Eamonn Walsh
28 January 2015	Edward Kane
25 February 2015	Gregory Connor
05 February 2015	William Black
Theme 4: Early warnings, divergent and contrarian views	
Date of Hearing	**Name**
04 March 2015	Alan Ahearne
26 February 2015	David McWilliams

Theme 5: The role of the media during the property boom	
Date of Hearing	**Name**
26 March 2015	Ed Mulhall
26 March 2015	Geraldine Kennedy
26 March 2015	Gerry O'Regan
25 March 2015	Harry Browne
25 March 2015	Julien Mercille
26 March 2015	Maeve Donovan
26 March 2015	Michael Doorly
26 March 2015	Paul Mulligan
25 March 2015	Tim Vaughan
25 March 2015	Tom Murphy
Theme 6: Relationships between sectors	
Date of Hearing	**Name**
12 March 2015	Elaine Byrne
12 March 2015	Frank McDonald
02 April 2015	John Moran
02 April 2015	Marie Hunt
04 March 2015	Peter Bacon
10 March 2015	Simon Carswell

APPENDIX 5.2 Nexus Phase: Public Hearing Witnesses

Banking		
Date of Hearing	**Institution**	**Name**
29 April 2015	Allied Irish Bank	David Duffy
23 April 2015	Allied Irish Bank	Dermot Gleeson
23 April 2015	Allied Irish Bank	Donal Forde
29 April 2015	Allied Irish Bank	Eugene Sheehy
07 May 2015	Allied Irish Bank	John Beggs
29 April 2015	Allied Irish Bank	Michael Buckley
30 July 2015	Anglo Irish Bank	Fintan Drury
03 September 2015	Anglo Irish Bank	Gary McGann
03 September 2015	Anglo Irish Bank	Matt Moran
03 September 2015	Anglo Irish Bank	Peter Fitzgerald
09 September 2015	Anglo Irish Bank	Tom Browne
30 April 2015	Bank of Ireland	Brian Goggin
07 May 2015	Bank of Ireland	Dan McLaughlin

APPENDIX 5.2 Nexus Phase: Public Hearing Witnesses

14 May 2015	Bank of Ireland	Laurence Crowley
14 May 2015	Bank of Ireland	Richard Burrows
06 May 2015	Bank of Ireland	Richie Boucher
29 July 2015	EBS	Alan Merriman
29 July 2015	EBS	Ethna Tinney
22 July 2015	EBS	Fergus Murphy
29 July 2015	EBS	Fidelma Clarke
30 July 2015	IBRC	Alan Dukes
30 July 2015	IBRC	Mike Aynsley*
03 September 2015	Irish Life & Permanent	David Gantly
03 September 2015	Irish Life & Permanent	David Went
02 September 2015	Irish Nationwide Building Society	John Stanley Purcell
02 September 2015	Irish Nationwide Building Society	Michael Fingleton
02 September 2015	Irish Nationwide Building Society	Michael Walsh
06 May 2015	Ulster Bank	Cormac McCarthy
07 May 2015	Ulster Bank	Michael Torpey
07 May 2015	Ulster Bank	Pat McArdle
07 May 2015	Ulster Bank	Robert Gallagher
13 May 2015	Auditors: Deloitte	Pat Cullen
13 May 2015	Auditors: Deloitte	Gerry Fitzpatrick*
14 May 2015	Auditors: KPMG	Terence O'Rourke
14 May 2015	Auditors: KPMG	Paul Dobey
20 May 2015	Auditors: PWC	Ronan Murphy
20 May 2015	Auditors: PWC	John McDonnell
20 May 2015	Auditors: Ernst & Young	Paul Smith
20 May 2015	Auditors: Ernst & Young	Dargan FitzGerald*
09 September 2015	Auditors: PWC	Denis O'Connor
09 September 2015	Auditors: PWC	Aidan Walsh
15 July 2015	Irish Banking Federation	Pat Farrell
Regulatory		
Date of Hearing	**Institution**	**Name**
21 May 2015	Central Bank of Ireland/Regulator	John Hurley
27 May 2015	Central Bank of Ireland/Regulator	Tony Grimes
27 May 2015	Central Bank of Ireland/Regulator	Mary Burke
27 May 2015	Central Bank of Ireland/Regulator	Con Horan
28 May 2015	Central Bank of Ireland/Regulator	Patrick Neary
10 June 2015	Central Bank of Ireland/Regulator	Mary O'Dea

APPENDIX 5.2 Nexus Phase: Public Hearing Witnesses

10 June 2015	Central Bank of Ireland/Regulator	Cyril Roux
10 June 2015	Central Bank of Ireland/Regulator	Tom O'Connell
11 June 2015	Central Bank of Ireland/Regulator	Liam O'Reilly
11 June 2015	Central Bank of Ireland/Regulator	Brian Patterson
25 June 2015	Central Bank of Ireland/Regulator	Patrick Honohan
09 September 2015	Central Bank of Ireland/Regulator	Alan Gray
22 July 2015	Central Bank of Ireland/Regulator	David Begg
22 July 2015	Central Bank of Ireland/Regulator	John Dunne
Government		
Date of Hearing	**Institution**	**Name**
17 June 2015	Dept of Finance	Tom Considine
17 June 2015	Dept of Finance	David Doyle
18 June 2015	Dept of Finance	Kevin Cardiff
18 June 2015	Dept of Finance	Derek Moran
18 June 2015	Dept of Finance	John Moran
24 June 2015	Dept of Finance	John McCarthy
24 June 2015	Dept of Finance	Kevin Cardiff
24 June 2015	Dept of Finance	William Beausang
01 July 2015	Dept of Finance	Ann Nolan
01 July 2015	Dept of Finance	Donal McNally
01 July 2015	Dept of Finance	Charles McCreevy
02 July 2015	Dept of Finance	Brian Cowen
08 July 2015	Dept of Taoiseach	Brian Cowen
09 July 2015	Advisor	Cathy Herbert
15 July 2015	Dept of Taoiseach	Dermot McCarthy
16 July 2015	Attorney General	Paul Gallagher*
16 July 2015	Advisor	Eugene McCague
16 July 2015	Advisor	Pádraig Ó'Ríordáin
16 July 2015	Dept of Taoiseach	Bertie Ahern
29 July 2015	Progressive Democrats : Leader	Mary Harney
29 July 2015	Green Party : Leader	John Gormley
09 September 2015	Advisor	Alan Ahearne
10 September 2015	Dept of Finance	Michael Noonan

APPENDIX 5.2 Nexus Phase: Public Hearing Witnesses

Oireachtas		
Date of Hearing	**Institution**	**Name**
23 July 2015	Fine Gael: Leader 2002-2007	Enda Kenny
23 July 2015	Fine Gael: Finance Spokesperson 2002-2007	Richard Bruton
23 July 2015	Labour Party: Leader 2002-2007	Pat Rabbitte
23 July 2015	Labour Party: Finance Spokesperson 2002-2007	Joan Burton
NAMA / NTMA		
Date of Hearing	**Institution**	**Name**
22 April 2015	National Asset Management Agency	Frank Daly
22 April 2015	National Asset Management Agency	Brendan McDonagh
09 July 2015	National Treasury Management Agency	Brendan McDonagh
09 July 2015	National Treasury Management Agency	Michael Somers
15 July 2015	National Treasury Management Agency	John Corrigan
International		
Date of Hearing	**Institution**	**Name**
10 September 2015	International Monetary Fund	Ajai Chopra*
10 September 2015	European Commission	Marco Buti*
Property Sector		
Date of Hearing	**Institution**	**Name**
13 May 2015	Construction Industry Federation	Liam Kelleher
13 May 2015	Construction Industry Federation	Tom Parlon
13 May 2015	Institute of Professional Auctioneers & Valuers	Patrick Davitt
09 July 2015	Developer	Derek Quinlan
22 July 2015	Developer	Michael O'Flynn
22 July 2015	Developer	Sean Mulryan
23 July 2015	Developer	Joe O'Reilly

** Witness appeared on a voluntary basis*

APPENDIX 5.3 Nexus Phase: Written Statements Only

Category	Institution	Name
Banking	Allied Irish Bank	Kieran Bennett
	Allied Irish Bank	Colm Doherty
	Allied Irish Bank	Jim O'Leary
	Allied Irish Bank	John O'Donnell
	Bank of Ireland	David Dilger
	Bank of Ireland	Denis Donovan
	Bank of Ireland	Helen Nolan
	Bank of Ireland	John O'Donovan
	Bank of Ireland	Ronan Murphy
	Bank of Ireland	Tom Hayes
	Irish Nationwide Building Society	David Murray
	Ulster Bank	Niamh Brennan
Regulatory	Central Bank of Ireland/Regulator	Adrian Byrne
	Central Bank of Ireland/Regulator	Allan Kearns
	Central Bank of Ireland/Regulator	Deirdre Purcell
	Central Bank of Ireland/Regulator	Frank Browne
	Central Bank of Ireland/Regulator	Gerard Danaher
	Central Bank of Ireland/Regulator	Jim Farrell
	Central Bank of Ireland/Regulator	Liam Barron
	Central Bank of Ireland/Regulator	Maria Woods
	Central Bank of Ireland/Regulator	Matthew Elderfield*
	Central Bank of Ireland/Regulator	William Slattery
Government	Advisor	Michael Ryan
	Advisor	Merrill Lynch*
	Dept of Finance	Michael McGrath
	Dept of Finance	Nicholas O'Brien
	Dept of Finance	Robert Pye
Oireachtas	Chairman, Oireachtas Joint Committee of Finance and the Public Service	Michael Ahern
	Chairman, Oireachtas Joint Committee on Economic Regulatory Affairs	Michael Moynihan
	Chairman, Oireachtas Joint Committee on Finance and Public Service	Seán Fleming
	Chairman, Oireachtas Committee of Public Accounts	Bernard Allen
	Tánaiste 2008-2011	Mary Coughlan

APPENDIX 5.3 Nexus Phase: Written Statements Only

Other	Irish Bank Officials Association	Larry Broderick
	Irish Fiscal Advisory Council	John McHale
	International Monetary Fund	IMF*
	Comptroller & Auditor General	John Buckley
	Comptroller & Auditor General	Seamus McCarthy
Property Sector	Developer	Bernard McNamara
	Developer	Gerard Barrett
	Developer	Gerard Gannon
	Developer	John Ronan
	Developer	Peter Cosgrave

**Statement asked for on a voluntary basis*

APPENDIX 5.4 Material Clarification Process – Responses Received

	Institution	Name
Banking	Allied Irish Bank	David Duffy
	Allied Irish Bank	Dermot Gleeson
	Allied Irish Bank	Eugene Sheehy
	Bank of Ireland	Brian Goggin
	Bank of Ireland	Richard Burrows
Regulatory	Central Bank of Ireland/Regulator	John Hurley
	Central Bank of Ireland/Regulator	Liam O'Reilly
	Central Bank of Ireland/Regulator	Patrick Neary
	Central Bank of Ireland/Regulator	Patrick Honohan
	Central Bank of Ireland/Regulator	Frank Browne
	Central Bank of Ireland/Regulator	Tony Grimes
	Central Bank of Ireland/Regulator	Liam Barron
	Central Bank of Ireland/Regulator	Brian Halpin
	Central Bank of Ireland/Regulator	Tom O'Connell
	Central Bank of Ireland/Regulator	Gerard O'Reilly
	Central Bank of Ireland/Regulator	Allan Kearns
	Central Bank of Ireland/Regulator	Alan Gray
Government	Dept of Finance	David Doyle
	Dept of Finance	Kevin Cardiff
	Dept of Finance	William Beausang
	Dept of Finance/Dept of Taoiseach	Brian Cowen
	Dept of Taoiseach	Dermot McCarthy
	Dept of Finance	Charlie McCreevy
	Dept of Taoiseach	Bertie Ahern
NTMA	NTMA	John Corrigan
	NTMA	Brendan McDonagh
	NTMA	Michael Somers
Property Sector	Developer	Sean Mulryan

Appendix 6: Documents sought under Direction by the Joint Committee

This is the list of all documents directed to be provided by the Joint Committee: this list does not mean that all of those requested were, in fact, provided. In certain cases, participants had a statutory basis on which to refuse to provide a document or part of a document. This list also does not include documents which were provided by participants on a voluntary basis. See Chapter 7 for further details.

Banks	
Date issued	15/01/2015
Participants	Bank of Ireland
	Allied Irish Bank
	Permanent TSB
	Ulster Bank
	IBRC
	EBS
Categories of documents directed to be produced	
1.	Board[66] Minutes for the period 2001 to 2008 which address or record the following: a. Risk appetite and lending strategies for commercial real estate[67] and/or residential real estate lending. [Ref. ID: b2a] b. Competitor activities in the commercial real estate and/or residential real estate lending markets. [Ref. ID: b2a] c. "tracker" mortgages. [Ref. ID: b3c] d. "Culture" and/or "risk culture. [Ref. ID: b2a] e. Credit policies for commercial real estate and/or residential real estate lending. [Ref. ID: b2b] f. Commercial real estate credit matters requiring Board Approval e.g. approval levels and policy exceptions. [Ref. ID: b2b] g. Board approved exceptions to credit policy for commercial real estate and/or residential real estate loans. [Ref. ID: b2b] h. Board rejected exceptions to credit policy in respect of commercial real estate and/or residential real estate loans. [Ref. ID: b2b] i. Review of actual commercial real estate and/or residential real estate credit exposures for each year end. [Ref. ID: b2c] j. Downside scenario analysis i.e. adverse case scenario analysis, stress tests or other discussions relating to commercial real estate and/or residential real estate credit risk. [Ref. ID: b2c] k. Downside scenario analysis i.e. adverse case scenario analysis, stress tests or other discussions relating to funding and liquidity risk. [Ref. ID: b2c] l. Internal Audit Reports relating to corporate governance. [Ref. ID: b1d] m. Funding strategies and policies. [Ref. ID: b3a] n. External Auditors' Management Letter – relating to the management of commercial real estate and/or residential real estate. [Ref. ID: b7b] o. External Auditors' Management Letter – relating to funding and liquidity risk. [Ref. ID: b7 b] p. Letters of Representations from the Directors to the External Auditors. [Ref. ID: b7b] q. Remuneration schemes linked to commercial real estate and/or residential real estate loan volumes. [Ref. ID: b5a] r. 10 highest bonus and shares/share options allocations – each year. [Ref. ID: b5a] s. Issues communicated by the Central Bank of Ireland or Financial Regulator relating to any control or other weakness requiring corrective action. [Ref. ID: b1b]

2.	Board Papers for the period 2001 to 2008 which address or record the following: a. Risk appetite and lending strategies for commercial real estate and/or residential real estate lending. Papers should include any 3rd party reports considered by the board, which you believe may help the Banking Inquiry's understanding of the strategy adopted by the bank. [Ref. ID: b2a] b. Competitor activities in the commercial real estate and/or residential real estate lending markets. [Ref. ID: b2a] c. "tracker" mortgages. [Ref. ID: b3c] d. "Culture" and/or "risk culture". [Ref. ID: b2a] e. Credit policies for the commercial real estate and/or residential real estate lending. [Ref. ID: b2b] f. Commercial real estate credit matters requiring Board Approval i.e. approval levels and policy exceptions. [Ref. ID: b2b] g. Board approved exceptions to credit policy for commercial real estate and/or residential real estate loans. [Ref. ID: b2b] h. Board rejected exceptions to credit policy in respect of commercial real estate and/or residential real estate loans. [Ref. ID: b2b] i. Review of actual commercial real estate and/or residential real estate credit exposures for each year end. [Ref. ID: b2c] j. Downside scenario analysis i.e. adverse case scenario analysis, stress tests or other discussions relating to commercial real estate and/or residential real estate credit risk. [Ref. ID: b2c] k. Downside scenario analysis i.e. adverse case scenario analysis, stress tests or other discussions relating to funding and liquidity risk. [Ref. ID: b2c] l. Internal Audit Reports relating to corporate governance. [Ref. ID: b1d] m. Funding strategies and policies. [Ref. ID: b3a] n. External Auditors' Management Letter – relating to the management of commercial real estate and/or residential real estate. [Ref. ID: b7b] o. External Auditors' Management Letter – relating to funding and liquidity risk. [Ref. ID: b7b] p. Letters of Representations from the Directors to the External Auditors. [Ref. ID: b7b] q. Remuneration schemes linked to commercial real estate and / or residential real estate loan volumes. [Ref. ID: b5a] r. 10 highest bonus and shares/share options allocations – each year, if not otherwise identified in Board papers, please create a document containing this information. [Ref. ID: b5a] s. Issues communicated by the Central Bank of Ireland or Financial Regulator relating to any control or other weakness requiring corrective action. [Ref. ID: b1b]
3.	Board Minutes, or any other narrative report, for the period 2008 to 2013 relating to the banking crisis, lessons learned and corrective actions. If such information is not readily available, please create a document setting out any significant changes to the management of property-related credit risk and funding & liquidity risk which have been implemented since 2008, together with the reasons for those changes. [Ref. ID: b1b]
4.	Documents detailing Board composition, biographies of Board members, nomination papers for Board members, terms of reference of the Board for the period 2001- 2008. [Ref. ID: b1a]
5.	Executive Committee (or equivalent) organisation chart and terms of reference for the period 2001 to 2008. If necessary and if not otherwise available, please create a document containing this information. [Ref. ID: b1a]
6.	Documents relating to commercial real estate and/or residential real estate property valuation policy, including documents which detail the external property valuer panel (or equivalent) for the period 2001 to 2008. [Ref. ID: b4a]
7.	Documents listing property valuation firms where aggregate payments exceeded €25 million for the period 2001 to 2008 in relation to property valuation services on properties in the Republic of Ireland financed by the bank. If necessary and if not otherwise identified in existing documents, please create a document containing this information based on the bank's best estimates of amounts paid by the bank and/or borrower even if precise information is not directly available to the bank. [Ref. ID: b4b]
8.	Internal Audit Reports relating to commercial real estate and/or residential real estate for the period 2001 to 2008. [Ref. ID: b6a]
9.	Internal Audit Reports relating to funding and/or liquidity risk for the period 2001 to 2008. [Ref. ID: b6a]
10.	Internal Audit Reports relating to corporate governance for the period 2001 to 2008. [Ref. ID: b6a]

11.	Composition of the Asset and Liability Committee (or equivalent) and biographies of members of that committee for the period 2001 to 2008. [Ref. ID: b3a]
12.	Agendas of each Asset and Liability Committee (or equivalent) meeting held for the period 2001 to 2008. [Ref. ID: b3a]
13.	External Auditors' Management Letters for the period 2001 to 2008. [Ref. ID: b7b]
14.	Internal Audit Reports relating to performance management, remuneration policies and procedures for the period 2001 to 2008. [Ref. ID: b6a]
15.	Letters of Representations from the Directors to the External Auditors for the period 2001 to 2008. [Ref. ID: b7b]
16.	Board approved exceptions to credit policy for commercial real estate and residential real estate loans – number and aggregate amount for the period 2001 to 2008. If necessary and if not otherwise identified in existing documents, please create a document containing this information. [Ref. ID: b2b].
17.	Board approved exceptions to credit policy in respect of commercial real estate and residential real estate loans rejected by the Board – number and aggregate amount for the period 2001 to 2008. If necessary and if not otherwise identified in existing documents, please create a document containing this information. [Ref. ID: b2b]
18.	Any other exceptions to credit policy in respect of any loan that was subsequently acquired by National Asset Management Agency, whether the exception required board approval or not – number and aggregate amount for the period 2001 to 2008. If this information is not readily available, please create a document setting out how credit policy exceptions could be approved, who was authorised to approve them and any related reports to the board on the matter of credit policy exceptions for the period 2001 to 2008. For clarity, this request applies solely to any loans that were subsequently acquired by National Asset Management Agency. [Ref. ID: b2b]
19.	All correspondence with the Central Bank of Ireland or the Financial Regulator during 2001-08 in relation to property lending and funding and liquidity risk. [Ref. ID: r2b]
20.	If the bank availed of the Bank Guarantee from 2008, records of telephone transcripts, recordings, minutes, notes and diary entries by officials within the bank in relation to the Bank Guarantee in 2008. [Ref. ID: c3b]

66 All references to Board includes Board of Directors, all Board sub-committees including those committees dealing with audit, risk, governance, remuneration, nominations and any Board committee approving commercial real estate or residential real estate loans.

67 Commercial real estate lending includes all land and development, office, industrial, hotel and retail property loans.

Date issued	**01/04/2015**
Participant	**IBRC**
	Categories of documents directed to be produced
1.	A copy of your Corporate Hospitality/Entertainment/Marketing (or equivalent) Register recording such activities provided to Clients/Contacts in the Property Sector and/or Government Departments or other State Bodies and Organisations, to include politicians, together with the Register of all Hospitality/ Gifts received by Staff in excess of €250 during the period 2004-2010 together with a copy of your policy in relation to same and a list of compliance breaches (if any) in relation to the above.

Central Bank	
Date issued	26/02/2015
	Categories of documents directed to be produced
1.	A document detailing the composition of the Boards[68] for the period 1999 to 2013. [Ref.ID r1d]
2.	A document detailing the biographies of the members of the Board for the period 1999 to 2013. [Ref.ID r1d]
3.	A document detailing the nomination process for appointment to the Board for the period 1999 to 2013. [Ref.ID r1d]
4.	A document detailing the terms of reference of the Board for the period 1999 to 2013. [Ref.ID r1d]

5.	A document detailing the membership of the executive management team (or equivalent) for the period 1999 to 2013 including an organisation chart. [Ref.ID r1d]
6.	A document detailing the biographies of the executive management team (or equivalent) for the period 1999 to 2013. [Ref.ID r1d]
7.	A document detailing the role accountabilities of the executive management team (or equivalent) for the period 1999 to 2013. [Ref.ID r1d]
8.	All Board minutes and agendas for the period 1999 to 2013 relating to: a. Review of the banking sector, to include the banking crisis, lessons learnt and corrective actions taken. b. Macro- economic or banking sector risk. c. Any relevant bank[69]. d. Prevailing economic and macro prudential view. e. Tax strategy. f. Stress testing and risk models for the macro economy, banking sector, financial services sector and / or individual banking institutions. g. Individual banking returns and reviews in respect of any relevant bank. The agendas and minutes should include all headings and the minutes should include matters discussed under "Any Other Business" if such matters relate to a. to g. above. [Ref.ID r1d]
9.	A document detailing the organisation structure for the Central Bank of Ireland (including the CBFSAI for period 2003 to 2010) including the terms of reference for each main constituent part and committee, for the period 2002 to 2013. [Ref.ID r1d]
10.	All committee minutes and agendas for the budget and remuneration committee and the audit committee for the period 2002 to 2013. [Ref.ID r1d]
11.	Board papers for the period 2003 to 2013 relating to: a. Review of the banking sector, to include the banking crisis, lessons learnt and corrective actions taken. b. Macro- economic or banking sector risk. c. Any relevant bank[69]. d. Prevailing economic and macro prudential view. e. Tax strategy. f. Stress testing and risk models for the macro economy, banking sector, financial services sector and / or individual banking institutions. g. Individual banking returns and reviews in respect of any relevant bank. The board papers should include all papers circulated in advance of or during board meetings under "Any Other Business" if such papers relate to a. to g. above. [Ref.ID r2b]
12.	The following documents in respect of the relevant banks for the period 2002 – 2010: Inspection reports, Audit Finding Reports, third party commissioned reports, minutes of post-inspection meetings, annual management letters, annual M46 letters, minutes and (save as otherwise disclosed under 8 and 11) board papers for meetings of the executive board of the Authority and the Authority and related correspondence. In addition the following data: ■ For the period 1992 to 2003 – a narrative describing the powers of enforcement in relation to breaches of prudential supervision for credit institutions with some examples; ■ For the period 2003 to 2010 - details of enforcement actions taken in respect of prudential supervisory breaches and the amount of fines and sanctions in each year for the period; ■ For the period 2003 and 2010 - a narrative describing the Bank's policy of enforcement in the areas of consumer protection, prudential supervision of credit institutions and other regulated firms as well as the pattern of enforcement actions (namely ASPs) undertaken during this period; and ■ For the period 2010 to 2013 – a document providing a narrative describing the pattern of enforcement actions to include ASPs, voluntary settlements for breaches of prudential supervision by credit institutions and other regulated firms, in addition to consumer led customer redress schemes affected by the bank. [Ref.ID r2a]

13.	A document providing a summary or narrative of the general reasons why enforcement actions for breaches of prudential supervision by credit institutions were typically not taken, or powers not utilised, in three different periods (1992 - 2002, 2003 - 2010 & 2010 - 2013), this should include the decision making forums at which these decisions were typically taken and the roles typically involved in these decisions. [Ref.ID r2a]
14.	A document or documents detailing the Central Bank's policy efforts during the period 2003 – 2010 to revise the governance architecture of banks and building societies to meet specific obligations required of them, including but not limited to, Directors Compliance statements, Fit and Proper Requirements and a Corporate Governance code for Banks and Building Societies. [Ref.ID r2a]
15.	A document containing a summary of the licencing process and parameters for banking institutions for period 2002 to 2013. [Ref.ID r2a]
16.	Annual pre-budget letters on fiscal matters to the Department of Finance and other correspondence between the Governor and the Department of Finance in his capacity as economic adviser to the Government for the period 1999 to 2013. [Ref.ID r2b]
17.	Financial Stability Reports for the period 2004 to 2008. [Ref.ID r3a]
18.	Joint Financial Stability Committee – board papers and minutes for the period 2002 to 2010. [Ref.ID r3a]
19.	A document detailing the full time equivalent headcount split between consumer and prudential supervision in the Financial Regulator for the period 2003 to 2010. If necessary and if not otherwise identified in existing documents, please create a document containing this information. [Ref.ID r1b]
20.	A document detailing the cost of resources, to include salaries, bonuses and external contractors split between consumer and prudential supervision in the Financial Regulator for the period 2003 to 2010. If necessary and if not otherwise identified in existing documents, please create a document containing this information. [Ref.ID r1b]
21.	Annual M46 letters issued to the Bank by auditors of each of the relevant banks for the period 2011 to 2013 and all related correspondence arising between the Bank and the individual relevant banks. [Ref.ID r4b]
22.	A document detailing the principles behind the regulatory regime and the communication of same to the banks for the period 2003 to 2013. [Ref.ID r1a]
23.	A document or documents detailing the process of supervisory engagement by the bank with each of the relevant banks during the period 2003 – 2013, (save as otherwise disclosed under 12 above), with an emphasis on engagements at the most senior levels between the Bank and each of the relevant banks during the period, and all materials and /or significant changes in the process of supervisory engagement during that period, to include details on enhanced reporting obligations of the relevant banks arising under the Eligible Liabilities Guarantee, and details of the supervisory engagement between the Bank and each of the relevant banks arising from the PRISM model as introduced in 2011. In addition the agendas, minutes and briefing papers from the Financial Stability Roundtable meetings for the period 2001 - 2010. [Ref.ID r1b]
24.	A document summarising the procedures for investigation of issues in banking institutions identified through reports and inspections, including escalation and decision making on enforcement actions for the period 2003 to 2010. [Ref.ID r2a]
25.	A document detailing the external expert advice (non-legal) sought or obtained during the period 2001 to 2010 on the financial services sector, banking sector and macroeconomic view. Please also include dates when advice was sought and the contact details for the relevant organisations. [Ref.ID r4a]
26.	A document summarising all the changes implemented or arising from the recommendations of the Irish Banking Crisis, Regulatory and Stability Policy 2003 to 2008 by Patrick Honohan, Governor of the Central Bank, Misjudging Risk: Causes of the systemic banking crisis in Ireland by Peter Nyberg, sole member of the Commission of Investigation (Banking Inquiry), A Preliminary Report on the Sources of Ireland's Banking Crisis by Max Watson and Klaus Regling and Review of the Department of Finance by Rob Wright for the period 2008 to 2013. [Ref.ID r7a]
27.	ECB Operational Committee – all meeting papers, minutes and data relating to the liquidity and security of refinancing operations for the period 2001 to 2010. [Ref.ID r6b]
28.	European Banking Authority – all meeting papers, minutes and data relating Irish banking Institutions for the period 2001 to 2013. [Ref.ID r6b]
29.	Single Supervisory Mechanism – all meeting papers, minutes and data relating to the development of the SSM to 31 Dec 2013. [Ref.ID r6b]

30.	Economic Affairs Department – all research papers in relation to the housing market and banks prepared for the period 2000 to 2008. [Ref.ID r6a]
31.	A document listing all credit institutions regulated by the Central Bank from 1992 to 2013 with assets in excess of €10billion. [Ref.ID r2a]
32.	Documents detailing the briefing/s of the Central Bank of Ireland and Financial Services Authority of Ireland official/s member of the Domestic Standing Group to the Central Bank of Ireland on topics discussed at the Domestic Standing Group. [Ref.ID c1c]
33.	Liquidity Monitoring Group – a document detailing the composition of the Liquidity Monitoring Group. [Ref. ID c2a]
34.	Liquidity Monitoring Group – a document detailing the establishment of the Liquidity Monitoring Group. [Ref. ID c2a]
35.	Liquidity Monitoring Group – terms of reference of the Liquidity Monitoring Group. [Ref.ID c2a]
36.	Liquidity Monitoring Group – agendas and minutes of the Liquidity Monitoring Group for the period. [Ref.ID c2a]
37.	Liquidity Monitoring Group – regarding document summarising any review of the effectiveness of the Liquidity Monitoring Group. [Ref.ID c2a]
38.	Central Bank Reform Act 2010 – communications or a document summarising communications with the Office of the Parliamentary Counsel to the Government regarding the Central Bank Reform Act for the period 2008 to 2010. [Ref.ID r7a]
39.	Credit Institution (Stabilisation) Act 2010 – communications or a document summarising communications with the Office of the Parliamentary Counsel to the Government regarding the Credit Institution (Stabilisation) Act 2010 for the period 2008 to 2010. [Ref.ID r7a]
40.	Central Bank (Supervision and enforcement) Bill 2011 – communication or a document summarising communications with the Office of the Parliamentary Counsel to the Government regarding the Central Bank (Supervision and enforcement) Bill 2011 for the period 2008 to 2011. [Ref.ID r7a]
41.	Central Bank Reform Act 2010 – agendas, minutes and meeting papers concerning the Central Bank Reform Act 2010 and the Central Bank Reform Bill 2010. [Ref.ID r7a]
42.	Credit Institutions (Stabilisation) Act 2010 - agendas, minutes and meeting papers concerning the Credit Institutions (Stabilisation) Act 2010 and the Credit Institutions (Stabilisation) Bill 2010. [Ref.ID r7a]
43.	Central Bank (Supervision and enforcement Bill 2011 - agendas, minutes and meeting papers concerning the Central Bank (Supervision and enforcement) Bill 2011. [Ref.ID r7a]
44.	The Treaty on Stability, Coordination and Governance in the Economic and Monetary Union [Fiscal Compact/ Stability Treaty] – position papers prepared for the Treaty on Stability, Coordination and Governance in the Economic and Monetary Union [Fiscal Compact/Stability Treaty] for the period 2010 to 2013. [Ref.ID c6c]
45.	The Treaty on Stability, Coordination and Governance in the Economic and Monetary Union [Fiscal Compact/ Stability Treaty] – documents concerning the proposed Treaty received, but not sought, from external sources for the period 2010 to 2013. [Ref.ID c6c]
46.	The Treaty on Stability, Coordination and Governance in the Economic and Monetary Union [Fiscal Compact/ Stability Treaty] – documents sought and obtained from external experts regarding the Treaty on Stability, Coordination and Governance in the Economic and Monetary Union [Fiscal Compact/Stability Treaty] for the period 2010 to 2013. [Ref.ID c6c]
47.	Treaty on Stability, Coordination and Governance in the Economic and Monetary Union [Fiscal Compact/ Stability Treaty] – documents detailing any post implementation review of the Treaty on Stability, Coordination and Governance in the Economic and Monetary Union [Fiscal Compact/Stability Treaty] for the period 2013. [Ref.ID c6c]
48.	Treaty on Stability, Coordination and Governance in the Economic and Monetary Union [Fiscal Compact/ Stability Treaty] – documents detailing any gap analysis on European initiatives with respect to the Treaty on Stability, Coordination and Governance in the Economic and Monetary Union [Fiscal Compact/Stability Treaty] for the period 2013. [Ref.ID c6c]
49.	Banking Union– position papers prepared for the Banking Union for the period 2010 to 2013. [Ref.ID c6b]

50.	Banking Union– documents concerning the proposed Banking Union received, but not sought, from external sources for the period 2010 to 2013. [Ref.ID c6b]
51.	Banking Union– documents sought and obtained from external experts regarding the Banking Union for the period 2010 to 2013. [Ref.ID c6b]
52.	Banking Union – documents detailing any post implementation review of the Banking Union for the period 2013. [Ref.ID c6b]
53.	Banking Union – documents detailing any gap analysis on European initiatives with respect to the Banking Union for the period 2013. [Ref.ID c6b]
54.	Basel III / CRD IV– position papers prepared for Basel III for the period 2009 to 2013. [Ref.ID c6a]
55.	Basel III / CRD IV– documents concerning the proposed Basel III / CRD IV received, but not sought, from external sources for the period 2009 to 2013. [Ref.ID c6a]
56.	Basel III / CRD IV– documents sought and obtained from external experts regarding Basel III / CRD IV for the period 2009 to 2013. [Ref.ID c6a]
57.	Basel III / CRD IV – documents detailing any post implementation review of the Basel III/ CRD IV for the period 2013. [Ref.ID c6a]
58.	Basel III / CRD IV – documents detailing any gap analysis on European initiatives with respect to Basel III / CRD IV for the period 2013. [Ref.ID c6a]
59.	Sovereign Debt Restructuring Mechanism – position papers prepared for a Sovereign Debt Restructuring Mechanism for the period 2009 to 2013. [Ref.ID c6a]
60.	Sovereign Debt Restructuring Mechanism – documents containing references a Sovereign Debt Restructuring Mechanism received, but not sought, from external sources for the period 2009 to 2013. [Ref.ID c6a]
61.	Sovereign Debt Restructuring Mechanism documents sought and obtained from external experts regarding a Sovereign Debt Restructuring Mechanism for the period 2009 to 2013. [Ref.ID c6a]
62.	Sovereign Debt Restructuring Mechanism - a document detailing any post implementation review of a Sovereign Debt Restructuring Mechanism for the period 2013. [Ref.ID c6a]
63.	Sovereign Debt Restructuring Mechanism – a document detailing any gap analysis on European initiatives with respect to Sovereign Debt Restructuring Mechanism for the period 2009 to 2013. [Ref.ID c6a]

68 All references to boards includes:

- Board of the Central Bank of Ireland (to 2003)
- Board of the Central Bank and Financial Services Authority of Ireland (2003 to 2010)
- Management Board of the Central Bank (2003 to 2010)
- The Authority of the Financial Regulator (2003 to 2010)
- The Central Bank Commission (from 2010)
- All subcommittees of the 5 boards above

69 All references to "relevant bank" or "relevant banks" means the eight credit institutions as follows:

(1) Allied Irish Banks p.l.c.
(2) EBS Limited
(3) The Governor and Company of the Bank of Ireland
(4) Permanent TSB Public Limited Company (and Irish Permanent plc)
(5) Anglo Irish Bank Corporation plc
(6) Irish Nationwide Building Society
(both (5) and (6) predecessors to Irish Bank Resolution Corporation Limited)
(7) Ulster Bank Ireland Limited
(8) Bank of Scotland (Ireland) Limited

Department of Finance	
Date issued	15/01/2015
	Categories of documents directed to be produced
1.	Reports which the Department of Finance prepared for the Cabinet on the banking sector for the period 2001 to 2010. [Ref.ID r3c]
2.	Department of Finance organisation chart, terms of reference, role profiles for roles down to Principal Officer/ Director level for the period 2001 to 2013. If necessary and if not otherwise identified in existing documents, please create a document containing this information. [Ref.ID r3a]
3.	Department of Finance biographies of staff from Secretary General to Principal Officer/ Director level for the period 2001 to 2013. [Ref.ID r3a]
4.	Department of Finance reporting structures and communication channels for the period 2001 to 2010 with: a. Central Bank of Ireland, b. Committees of the Oireachtas including but not limited to the Finance Joint Committee, c. Cabinet, d. Oireachtas. [Ref.ID r3b]
5.	Agendas and minutes of any committee within the Department of Finance which considered the prevailing economic and macro prudential view for the period 2001 to 2010. [Ref.ID r3a]
6.	Financial Stability Roundtable – all agendas and minutes for the period 2001 to 2010. If the Department of Finance did not participate in this process, please confirm this. [Ref.ID r3b]
7.	Agendas and minutes of all meetings which considered the prevailing economic and macroeconomic prudential view and / or the banking sector between the Department of Finance and Central Bank of Ireland (including all parts of CBFSAI for period 2003 to 2010). As well as committees of which the Department of Finance and the Central Bank of Ireland were members, this should also include any regular forums or meetings between the two institutions where the macro-economic view was expressly discussed, for example but not limited to, pre-budget meetings. [Ref.ID r3b]
8.	List the external expert advice (non-legal) sought or obtained by the Department of Finance on the banking sector and the macroeconomic view during the period 2001 to 2010. If necessary and if not otherwise identified in existing documents, please create a document containing this information. Please also include dates when advice was sought and the contact details for the relevant organisations. [Ref.ID r6a]
9.	List all formal interactions / forums with the European Commission or the European Council on banking by the Minister for Finance or the Department of Finance during the period 2001 to 2010 – excluding the conversion to the Euro. If necessary and if not otherwise identified in existing documents, please create a document containing this information. [Ref.ID r6b]
10.	Documents detailing all the changes implemented by the Department of Finance from the recommendations of the Irish Banking Crisis, Regulatory and Stability Policy 2003 to 2008 by Patrick Honohan, Governor of the Central Bank, Misjudging Risk: Causes of the systemic banking crisis in Ireland by Peter Nyberg, sole member of the Commission of Investigation (Banking Inquiry), A Preliminary Report on the Sources of Ireland's Banking Crisis by Max Watson and Klaus Regling and Review of the Department of Finance by Rob Wright for the period 2008 to 2010. [Ref.ID r6a]
11.	Documents which proposed legislative changes to the Minister for Finance regarding banking regulation and control for the period 2001 to 2010. [Ref.ID r1a]
12.	Documents relating to the Department of Finance's participation in the Implementation Advisory Group on the Establishment of a Single Regulatory Authority for the Financial Services Sector for the period 1998 to 1999. [Ref.ID r1a]
13.	All documents, papers and reports received by the Department of Finance from external auditors of banks, in their capacity as statutory auditors. [Ref.ID r6b]
14.	Copies of transcripts/tapes of all interviews conducted by the Nyberg Commission and by Rob Wright. [Ref.ID r3a]
15.	The diaries of the Minister for Finance and the Secretary General of the Department of Finance for the period 2001 to 2013. [Ref.ID r3b]

16.	The briefing notes prepared in response to contrarian views on the economy, from 2002 - 2008. A contrarian view includes any view from an economist or economic commentator which took a different view from the orthodox view as set out, inter alia, in the Wright Report namely that "the Irish economy would continue to grow, that property prices would continue to increase and/or that the most likely unfavourable outcome was that the economy and property market would enjoy what has been described as a soft landing e.g. Morgan Kelly." The briefing notes sought are those between the Minister for Finance and officials at Principal Officer and above. Briefing notes to the Office of the Parliamentary Counsel to the Government from the department in relation to the Central Bank and Financial Services Authority of Ireland Act 2003 and Central Bank Reform of 2010. In this regard briefing notes should include heads of bill and associated explanatory notes. [Ref.ID r6c]
17.	Economic and Financial Affairs Council (ECOFIN) – agendas and minutes of all meetings for the period 2001 to 2013. [Ref.ID c1a]
18.	Economic and Financial Affairs Council (ECOFIN) – list of all other contacts with Economic and Financial Affairs Council members regarding banking for the period 2001 to 2013. [Ref.ID c1a]
19.	Economic and Financial Affairs Council (ECOFIN) – Memorandum of Understanding signed between the Central Bank of Ireland and the Financial Regulator 2003. [Ref.ID c1a]
20.	Economic and Financial Affairs Council (ECOFIN) - the tripartite Memorandum of Understanding signed by the Minister for Finance, the Central Bank and the Financial Services Regulatory Authority of Ireland – all three parties to the Domestic Standing Group (DSG). [Ref.ID c1a]
21.	Economic and Financial Affairs Council (ECOFIN) – documents directly relating to the formulation and analysis of the "crisis simulation exercises" involving the Department of Finance, the Central Bank and the Financial Services Regulatory Authority of Ireland for the period 2003 to 2006. [Ref.ID c1b]
22.	Economic and Financial Affairs Council (ECOFIN) - documents detailing the internal and external expert advice (non-legal) provided to Ireland's representatives at ECOFIN for the purposes of their attendance at same for the period 2003 to 2006. [Ref.ID c1a]
23.	Domestic Standing Group – terms of reference of this group.[Ref.ID c1c]
24.	Domestic Standing Group – Memorandum of Understanding agreed between the Department of Finance, the Central Bank and the Financial Services Authority of Ireland in respect of the Domestic Standing Group. [Ref. ID c1c]
25.	Domestic Standing Group - agendas, minutes and meeting papers of the Domestic Standing Group for the period 2006 to 2013. [Ref.ID c1c]
26.	Documents detailing the briefing/s or actions of the Department of Finance members of the Domestic Standing Group to the Department of Finance as a result of their attendance at the Domestic Standing Group for the period 2006 to 2013. [Ref.ID c1d]
27.	Reports produced and received by the Domestic Standing Group and which were issued to the European Council for the period 2006 to 2013. [Ref.ID c1c]
28.	The Domestic Standing Group's report(s) assessing the Central Bank Financial Service Authority of Ireland's Crisis Resolution Paper during 2008. [Ref.ID c1b]
29.	Department of Finance sponsored reviews into Irish Life and Permanent, Anglo Irish Bank and Irish Nationwide Building Society – documents outlining the selection criteria of those appointed/ to be appointed as reviewers. [Ref.ID c2c]
30.	Department of Finance sponsored reviews of Irish Life and Permanent, Anglo Irish Bank and Irish Nationwide Building Society – terms of reference for each review undertaken. [Ref.ID c2c]
31.	Department of Finance sponsored reviews of Irish Life and Permanent, Anglo Irish Bank and Irish Nationwide Building Society – final Report/s. [Ref.ID c2c]
32.	Department of Finance sponsored reviews of Irish Life and Permanent, Anglo Irish Bank and Irish Nationwide Building Society –the Department of Finance's assessment of these reviews. [Ref.ID c2c]
33.	Department of Finance sponsored reviews of Irish Life and Permanent, Anglo Irish Bank and Irish Nationwide Building Society – documents produced by external experts employed or engaged by the Department of Finance detailing an assessment of these reports. [Ref.ID c2c]
34.	Department of Finance sponsored reviews of Irish Life and Permanent, Anglo Irish Bank and Irish Nationwide Building Society – briefings prepared for either the Minister for Finance, An Taoiseach or the Cabinet on these reviews. [Ref.ID c2c]

35.	With regard to the Deposit Guarantee Scheme increase to €100,000 in 2008: a. documents detailing any appraisal of conditions prior to the introduction of the Scheme. b. analysis carried out in advance of the introduction of the Scheme. c. advices sought or obtained from external expert contractors on this Scheme. d. correspondence received or issued to the Cabinet, the European Council, the European Central Bank relating to this Deposit Guarantee Scheme. e. documentation of any appraisal / feedback by the Central Bank and /or Financial Regulator. [Ref.ID c3a]
36.	Merrill Lynch – correspondence with Merrill Lynch meeting/s with An Taoiseach and /or other Ministers during 2008. [Ref.ID c2b]
37.	Merrill Lynch - documents detailing options and/or proposals made by Merrill Lynch to the Minister for Finance during 2008. [Ref.ID c2b]
38.	Merrill Lynch – documentation prepared for the meeting/s by the Department of Finance between Merrill Lynch and the Minister for Finance during 2008.[Ref.ID c2b]
39.	Merrill Lynch – telephone calls – recordings and/or transcripts – made or taken regarding the meeting/s between Merrill Lynch and the Minister for Finance during 2008. [Ref.ID c2b]
40.	Merrill Lynch – documentation prepared by the Department of Finance for the European Central Bank, European Council regarding the meeting/s between Merrill Lynch and the Minister for Finance during 2008. [Ref.ID c2b]
41.	Merrill Lynch – correspondence between the Department of Finance and the European Central Bank or European Council regarding the meeting/s between Merrill Lynch and the Minister for Finance during 2008. [Ref.ID c2b]
42.	Documents/records of information, detail and advice given to or sought by the Secretary General of the Department of Finance and/or the Minister of Finance from the period 22nd September 2008 to 30th September 2008 as a direct result of and/or in respect of PricewaterhouseCoopers's analysis on banks' loan books. [Ref.ID c3c]
43.	Post Guarantee – Letter of Engagement of Price Waterhouse Coopers and the Department of Finance regarding the examination of the Loan Books of banks during the period 2008 to 2009. [Ref.ID c3c]
44.	Post Guarantee – Letter of Retainer of Price Waterhouse Coopers and the Department of Finance regarding the examination of the Loan Books of banks during the period 2008 to 2009. [Ref.ID c3c]
45.	Post Guarantee – correspondence between Price Waterhouse Coopers and the Department of Finance regarding the examination of the Loan Books of banks during the period 2008 to 2009. [Ref.ID c3c]
46.	Post Guarantee – Executive summary, findings and / or recommendations contained in any report prepared by Price Waterhouse Coopers for the Department of Finance following the examination of the Loan Books of banks during the period 2008 to 2009. [Ref.ID c3c]
47.	Post Guarantee – letter of engagement of Merrill Lynch and the Department of Finance regarding the examination of capital in banks during the period 2008 to 2009. [Ref.ID c3c]
48.	Post Guarantee – letter of retainer of Merrill Lynch and the Department of Finance regarding the examination of capital adequacy of Irish banks during the period 2008 to 2009. [Ref.ID c3c]
49.	Post Guarantee – correspondence between Merrill Lynch and the Department of Finance regarding the examination of capital in banks during the period 2008 to 2009. [Ref.ID c3c]
50.	Post Guarantee – Executive summary, findings and / or recommendations contained in any report prepared by Merrill Lynch for the Department of Finance following the examination of the capital of all banks during the period 2008 to 2009. [Ref.ID c3c]
51.	Nationalisation of Anglo Irish Bank – agendas, minutes and reports directly relating to the nationalisation of Anglo Irish Bank in January 2009 for the period 2008 to 2009. [Ref.ID c4a]
52.	Capitalisation of Anglo Irish Bank, Allied Irish Bank plc and Bank of Ireland – agendas, minutes and reports directly relating to the capitalisation of Anglo Irish Bank, Allied Irish Bank plc and Bank of Ireland in March 2009 for the period 2008 to 2009. [Ref.ID c4c]

53.	Secondary investment / capitalisation of Allied Irish Bank plc – agendas, minutes and reports directly relating to the secondary investment and / or capitalisation of Allied Irish Bank plc in December 2010 for the period 2009 to 2011. [Ref.ID c4c]
54.	Merger of Allied Irish Bank plc and EBS Limited – agendas, minutes, and reports on the merger of Allied Irish Bank plc and EBS Limited in March 2011 for the period 2010 to 2011. [Ref.ID c4d]
55.	Merger of Irish Nationwide Building Society and Anglo Irish Bank – agendas, minutes and reports on the merger of Irish Nationwide Building Society and Anglo Irish Bank in July 2011 for the period 2010 to 2011. [Ref.ID c4d]
56.	Liquidation of Irish Bank Resolution Corporation Limited – agendas, minutes and, reports on the liquidation of Irish Bank Resolution Corporation Limited in February 2013 for the period 2012 to 2013. [Ref.ID c5b]
57.	Establishment of the National Asset Management Agency – agendas, minutes and reports on the establishment of the National Asset Management Agency in 2009 for the period 2008 to 2009. [Ref.ID c4b]
58.	The issue of Promissory notes – agendas, minutes and reports on the issue of Promissory notes for the period 2008 to 2013. [Ref.ID c5b]
59.	EU-IMF programme of financial support –agendas, minutes and reports on the issue of the EU-IMF programme of financial support for the period 2010 to 2013. [Ref.ID c5a]
60.	The following items in relation to the Treaty on Stability, Coordination and Governance in the Economic and Monetary Union [Fiscal Compact/Stability Treaty]: a. position papers prepared by the Department of Finance. b. unsolicited and solicited documents from external sources for the period 2010 to 2013. c. documents directly relating to any post implementation review for the period 2013. d. documents directly relating to any gap analysis on European initiatives on this Treaty for the period 2013. [Ref.ID c5c]
61.	Papers from the Policy Unit with primary responsibility for Banking Union: a. position papers prepared for the Banking Union for the period 2010 to 2013. b. documents directly relating to the proposed Banking Union, solicited and unsolicited, from external sources for the period 2010 to 2013. c. documents detailing any post implementation review of the Banking Union for the period 2013. d. documents detailing any gap analysis on European initiatives with respect to the Banking Union for the period 2013. [Ref.ID c6b]
62.	The following items from the Policy Unit with primary responsibility for CRD IV: a. position papers prepared for Basel III for the period 2009 to 2013. b. documents containing references to the proposed CRD IV, solicited and unsolicited, from external sources for the period 2009 to 2013. c. documents detailing any post implementation review of CRD IV for the period 2013. d. documents detailing any gap analysis, referring here and elsewhere to a comparison between actual performance and potential or desired performance, on European initiatives with respect to CRD IV for the period 2013. [Ref.ID c6a]
63.	The following items relating to the Sovereign Debt Restructuring Mechanism, which is a measure as suggested by other countries actions at EU and IMF level, from the policy unit with primary responsibility – a. position papers, if any, for the period 2009 to 2013. b. documents containing references to the Mechanism, solicited and unsolicited, from external sources for the period 2009 to 2013. c. documents detailing any post implementation review of the Mechanism for the period 2013. d. documents detailing any gap analysis on European initiatives with respect to the Mechanism for the period 2009 to 2013. [Ref.ID c6c]

64.	The 'General Scheme' is a reference to draft legislation considered by the Department of Finance in June 2008 proposing to give the Minister power to take ownership of, and/or to guarantee, an Irish Bank. Please supply the following in connection with this draft legislation: a. Documentation detailing the draft legislation. b. Documents comprising instructions and/or briefings to the Office of the Parliamentary Counsel to the Government. c. Related advice/analysis from external sources supplied to the Minister or the Department. d. Documentation directly relating to the decision to proceed, or not, with the proposed legislation. e. Related advice/analysis received by the Department of Finance from representatives of the Central Bank and Financial Regulator. [Ref.ID c1d]
65.	Bank Guarantee – documents directly relating to any appraisal of the prevailing economic conditions prior to its introduction in 2008.
66.	Bank Guarantee - records of telephone calls (including transcripts and recordings), and minutes, notes and diary entries of meetings by officials of the Department to the Central Bank and to the Financial Regulator regarding the introduction of the Guarantee.
67.	Bank Guarantee – documents directly relating to the analysis by the Department of Finance of the issue resolved via the Guarantee.
68.	Bank Guarantee – advice, reports and analysis of the alternatives to the Guarantee considered by the Department of Finance. [Ref.ID c3b]

Department of Finance	
Date issued	12/03/2015
	Categories of documents directed to be produced
1.	A list of solicited and unsolicited representations (in the form of minutes of meetings or formal written correspondence) made by representative bodies of valuers, auctioneers and the construction industry to the Minister for Finance, Minister of State for Finance or the Secretary General at the Department of Finance for the period 2001 to 2010 regarding the importance of the property sector to the Irish economy. If necessary and if not otherwise identified in existing documents, please create a document containing this information. [Ref.ID r5d]
2.	Advice sought/received relating to the quantification of the overall cost to the State of the crisis for the period 2008 to 2013. This should include: ■ External and internal reports made available to the Minister for Finance; ■ Representations made on behalf of social/focus groups and business groups made to the Minister for Finance or the Secretary General at the Department of Finance; and ■ Briefings prepared in response to Parliamentary Questions addressed orally in the Dáil. [Ref.ID c2b]
3.	Advices, analyses, reports sought/received by the Department of Finance, relating to the allocation of the overall burden of adjustment and the impact thereof, for the period 2008 to 2013. [Ref.ID c2b]
4.	Any advices, analyses, reports sought/received by the Department of Finance by national/international agencies including but not limited to ESRI, IMF and OECD, on the subject of the burden of adjustment for the period 2008 to 2013.
5.	List of each person at Principal Officer grade (including equivalent pay grades) and above in the Department of Finance who, at any time from 1 January 2001 to 31 December 2010, had responsibility for the following areas: ■ Banking ■ Taxation ■ Expenditure ■ Housing Policy ■ Economic related policies Please provide the name, grade(s), period (years and months), short description of the role or job and name. If necessary and if not otherwise identified in existing documents, please create a document containing this information. [Ref.ID c2b]
6.	List of all political/technical advisors to the Minister for Finance and Department who, in the period from 1 January 2001 to 31 December 2010, provided support and advice on the following areas: ■ Banking ■ Economic related policies. Please provide the name, employment status (political advisor, contractor economist etc.) period (years and months) and short description of the role or job. If necessary and if not otherwise identified in existing documents, please create a document containing this information. [Ref. ID c2b]

Department of the Taoiseach	
Date issued	15/01/2015
	Categories of documents directed to be produced
1.	Documents/records of information, detail and advice given to or sought by the Secretary General of the Department of the Taoiseach and/or An Taoiseach from the period 22nd September 2008 to 30th September 2008 as a direct result of and/or in respect of PricewaterhouseCoopers' analysis on Bank's loan books. [Ref. ID c3c]

Date issued	12/03/2015
	Categories of documents directed to be produced
1.	A list of solicited and unsolicited representations (in form of minutes of meetings or formal written correspondence) made by representative bodies of (including but not limited to) valuers, and auctioneers and the construction industry to the Taoiseach, the Department of the Taoiseach or Secretary General at the Department for the period 2001 to 2010 regarding the importance of the property sector to the Irish economy. If necessary and if not otherwise identified in existing documents, please create a document containing this information. [Ref.ID r5d]
2.	List of each person at Principal Officer grade and above who, at any time from 1 January 2001 to 31 December 2010, worked on matters relating to: ■ Banking ■ Economic matters ■ IFSC Please provide in summary name, grade(s), period (years and months), short description of the role or job and name. If necessary and if not otherwise identified in existing documents, please create a document containing this information. [Ref.ID c2b]
3.	List of all political/technical advisors to the Taoiseach and the Department of the Taoiseach who, in the period from 1 January 2001 to 31 December 2010, provided support and advice on the following areas: ■ Banking ■ Economic related policies ■ Work on matters relating to banking & IFSC entities who provided support & advice to the Taoiseach Please provide the name, employment status (political advisor, contractor economist etc.) period (years and months) and short description of the role or job. If necessary and if not otherwise identified in existing documents, please create a document containing this information. [Ref.ID c2b]
4.	Briefings prepared for the Taoiseach's appearances in the Houses of the Oireachtas relating to the banking crisis, including but not limited to Parliamentary Questions (including supplementary questions and replies), Leader's Questions, Statements, for the period 1 January 2008 to 31 December 2013. [Ref.ID c2b]
5.	Records as follows relating the IFSC Clearing House Group – Terms of Reference, Agendas for Meetings and Minutes of Meetings from the period, 1 January 2000 to 31 December 2013. The Joint Committee understand this information will be forwarded on or before 23rd March 2015. [Ref.ID c2b]
6.	Correspondence, notes of meetings, relevant and material exchanges, and records of any other exchanges involving the Taoiseach and/or his advisors and/or his officials with the Heads or representatives of any EU State , officials from the European Commission, and the European Central Bank on the banking crisis, from the period , 1 January 2008 to 31 December 2013. [Ref.ID c2b]
7.	Correspondence, notes of meetings, relevant and material exchanges, and records of any other exchanges on the files of the Department of the Taoiseach involving any other Minister of the Government (excluding the Minister for Finance), and/or their advisors and/or their officials with the Heads or other representatives of any EU State, officials from the European Commission, and the European Central Bank, on the banking crisis, from the period 1 January 2008 to 31 December 2013. [Ref.ID c2b]
8.	Correspondence and notes of any other engagements relevant and material exchanges, between the Taoiseach and/or his advisors (technical political) and/or his officials made by (including but not limited to) valuers, and auctioneers and construction industry representative bodies thereof from the construction and property sector and relevant banks, referred to in the schedule on page 5, on the banking crisis, from the period 1 January 2008 to 31 December 2013. [Ref.ID c2b]
9.	Correspondence and notes of any other engagements between the Taoiseach and/or his advisors and/or his officials with representative bodies from the banking sector on the banking crisis, from the period 1 January 2008 to 31 December 2013. [Ref.ID c2b]
10.	The assessments, if any, undertaken or commissioned by the Department of the Taoiseach or any bodies under its aegis on the impact of the banking crisis. [Ref.ID c2b]

Auditors		
Date issued	05/02/2015	
Auditor	**Bank**	**Period covered**
Deloitte	Anglo Irish Bank	2009 - 2010
	Ulster Bank	2001 - 2010
EY	Educational Building Society (EBS)	2001 - 2008
	Anglo Irish Bank	2001 - 2008
KPMG	Allied Irish Bank	2002 - 2010
	Educational Building Society (EBS)	2009 - 2010
	Irish Nationwide Building Society	2001 - 2010
	Bank of Scotland (Ireland)	2001 - 2008
	Permanent TSB	2001 - 2010
PWC	Allied Irish Bank	2001
	Bank of Ireland	2001 - 2010
	Bank of Scotland (Ireland)	2009

Categories of documents directed to be produced

Documents sought relating to the external audit work undertaken by [named firm], hereinafter referred to as the "External Auditors", in respect of the [financial institution – see table above] hereinafter referred to as the "Bank/Building Society". [Reference ID b7b]

1.	All Management Letters or internal control letters issued by the External Auditors in respect of the relevant bank/building society for the period as detailed in the table.
2.	All correspondence between the External Auditors and the relevant bank/building society, on the matters detailed below, for the period as detailed in the table: a. Corporate Governance, b. Property related lending risk, c. Relaxation of and/or exceptions to and/or breaches of credit policies, d. Funding and / or liquidity risk, e. Determination of 'going concern' basis for preparing statutory financial statements.
3.	All notes and/or minutes of meetings and/or minutes or notes of telephone conversations between the External Auditors and the Chief Executive, Chief Financial Officer, Chief Credit Officer, Chief Risk Officer, Head of Internal Audit, Board Director [or any individuals of equivalent office with different title] of the relevant bank/building society, on the topics detailed below, for the period as detailed in the table: a. Corporate Governance, b. Property related lending risk, c. Relaxation of and/or exceptions to and/or breaches of credit policies, d. Funding and / or liquidity risk, e. Determination of 'going concern' basis for preparing statutory financial statements.
4.	All internal working papers prepared by the External Auditors relating to matters raised in the Management Letters prepared by the External Auditors in respect of the relevant bank/building society, on the topics detailed below, for the period as detailed in the table: a. Corporate Governance, b. Property related lending risk, c. Relaxation of and/or exceptions to and/or breaches of credit policies, d. Funding and / or liquidity risk, e. Determination of 'going concern' basis for preparing statutory financial statements.

5.	All correspondence between the External Auditors and the Financial Regulator and/or the Central Bank of Ireland concerning the relevant bank/building society, on the topics detailed below, for the period as detailed in the table: a. Corporate Governance, b. Property related lending risk, c. Relaxation of and/or exceptions to and/or breaches of credit policies, d. Funding and / or liquidity risk, e. Determination of 'going concern' basis for preparing statutory financial statements.
6.	All notes and/ or minutes of meetings and/or minutes or notes of telephone conversations between the External Auditors and the Financial Regulator and/or the Central Bank of Ireland concerning the relevant bank/ building society, on the topics detailed below, for the period as detailed in the table: a. Corporate Governance, b. Property related lending risk, c. Relaxation of and/or exceptions to and/or breaches of credit policies, d. Funding and / or liquidity risk, e. Determination of 'going concern' basis for preparing statutory financial statements. For the avoidance of doubt, correspondence above refers to all non-electronic and electronic forms of communication, including but not limited to email.

NTMA	
Date issued	05/02/2015
Categories of documents directed to be produced by NTMA and subsidiary companies excluding NAMA	
1.	NTMA terms of reference for the period 2001 to 2013 (if not otherwise identified in existing documents, please create a document containing this information). [Ref.ID r3b]
2.	NTMA reporting structures and communication channels (if any) for the period 2001 to 2013 (if not otherwise identified in existing documents, please create a document containing this information) with: a. Central Bank of Ireland, b. Department of Finance, c. Committees of the Oireachtas including but not limited to the Finance Joint Committee, d. Cabinet, e. Oireachtas. [Ref.ID r3b]
3.	(a) Papers and reports submitted to the NPRF Commission related to investment in Irish financial institutions (whether under Ministerial direction or otherwise) and copies of Commission minutes relating to such investments for the period 2001 to 2010. [Ref.ID r3b] (b) Papers submitted to the NTMA Advisory Committee relating to Funding and Debt Management /EU IMF programme for the period 2001 to 2013 and copies of the Advisory Joint Committee Minutes. [Ref.ID r3b]
4.	Agendas and minutes of all meetings which considered the prevailing economic and macro prudential view and/or the banking sector between the NTMA and: a. Central Bank of Ireland, b. Department of Finance, c. Committees of the Oireachtas including but not limited to the Finance Joint Committee, d. Cabinet, e. Oireachtas. [Ref.ID r3b]
5.	List the external expert advice (non-legal) sought or obtained by the NTMA on the macroeconomic view during the period 2001 to 2013. Please include the dates when advice was sought and the contact details for the relevant organisations. If not otherwise identified in existing documents, please create a document containing this information. [Ref.ID r4a]
6.	NTMA – agendas and minutes of all meetings relating to the Banking crisis for the period 2008 to 2013. [Ref. ID c2c]
7.	NTMA – advices, analyses, reports received from or provided to the Domestic Standing Group, relating to the Banking crisis from 2008 to 2013. [Ref.ID c2c]
8.	Any commissioned or received reports relating to the Banking crisis from 2008 to 2013. [Ref.ID c2c]
9.	Any reports, advices and analysis supplied by NTMA to the Minister for Finance relating to the Banking crisis from 2008 to 2013. [Ref.ID c2c]
10.	Post 30 September 2008 – Any schedule of issuance of Government bonds and ELG bonds issues for the period from 2008 to 2013 (if not otherwise identified in existing documents, please create a document containing this information). [Ref.ID c2c]
11.	Post 30 September 2008 – any advices and consultations with the Dept. of Finance and NTMA regarding bond issuance, the type of bond issued, the maturity, timing, and amounts, relating to the Banking crisis for the period from 2008 to 2013. [Ref.ID c2c]
12.	Post 30 September 2008 - any senior management correspondence from NTMA to banks relating to the Banking crisis for the period from 2008 to 2013. [Ref.ID c2c]
13.	Any internal analyses/reports of the Irish banking sector prepared at the request of and/or for the consideration of the NTMA Board, the Minister for Finance, Governor of the Central Bank or the Financial Regulator, including those relating to placing deposit funds in Irish Banks during the Period 2000-13 with detail of limits imposed. [Ref.ID c2c]

Appendix 7: Correspondence with the ECB

An Comhchoiste Fiosrúcháin i dtaobh na Géarchéime Baincéireachta
Teach Laighean
Baile Átha Cliath 2

Teil: +353 1 618 3940
R/phost:bankinginquiry@oireachtas.ie

Joint Committee of Inquiry into the Banking Crisis

Leinster House
Dublin 2

Tel: Tel: +353 1 618 3940
E-mail bankinginquiry@oireachtas.ie

Our ref.: ibc-i-036

Mr Mario Draghi,
President,
European Central Bank,
29 Kaiserstrasse,
D-60311 Frankfurt am Main,
Germany.

13 November 2014

Dear President Draghi,

In May this year, the Oireachtas, the Irish Parliament, established the Joint Committee of Inquiry into the Banking Crisis. The Committee recently finalised its proposal for the Banking Inquiry, which sets out comprehensive terms of reference for the Inquiry. In the event that the terms of reference are adopted by the *Houses,* the Committee will be empowered to conduct an inquiry under Part 2 of the Houses of the Oireachtas (Inquiries, Privileges and Procedures) Act 2013 ("the Inquiries Act").

The Inquiry is likely to address the reasons Ireland experienced a systemic banking crisis, including the political, economic, social, cultural, financial and behavioural factors and policies which impacted on or contributed to the crisis, by investigating relevant matters relating to banking systems and practices, regulatory and supervisory systems and practices, crisis management systems, and policy responses and the preventative reforms implemented in the wake of the crisis.

The motions in the Houses to establish the Inquiry are expected to be taken in a matter of weeks, with work commencing immediately thereafter. The purpose of this letter, therefore, is to make preliminary contact with persons or categories of persons to whom the terms of reference of the Inquiry may relate, in order to establish clear lines of communication at an early stage. Please note, however, that this letter should not be taken as an indication that you and/or your organisation will in fact be called before the Inquiry and/or asked for documents or other

evidence by the Inquiry. For present purposes it would be of assistance if you would designate a person or persons within the European Central Bank with whom the Inquiry Secretariat can liaise directly regarding the work of the Inquiry. I would ask you to furnish this information by email to bankinginquiry@oireachtas.ie, by close of business on Friday 21 November 2014.

Mr. John Hamilton is the Clerk to the Committee and can be contacted by telephone at +353 1 6183940, should any additional information or clarification be required.

The Joint Committee is grateful for your assistance and co-operation in this matter.

Yours sincerely

Ciarán Lynch T.D.
Chairman.

EUROPEAN CENTRAL BANK

EUROSYSTEM

Mario Draghi
President

[ibc-r-70]

Mr. Ciarán Lynch, T.D.,
Chairman of the Irish Parliament's
Committee of Inquiry into the Banking Crisis.
Houses of the Oireachtas Service
Leinster House
Kildare Street
Dublin 2

Frankfurt, 15 December 2014
L/MD/14/520

Your letter of 13 November 2014

Honourable Member of the Daíl, dear Mr Lynch,

Many thanks for your letter. As you are aware, the European Central Bank as a European institution is primarily held to account by the European Parliament as the representation of all the Union's citizens. Article 284.3 of the Treaty on the Functioning of European Union foresees that the European Parliament may hear the President and the other members of the Executive Board of the ECB, and on this occasion the President and the other members of the Executive Board may explain the ECB's policies.

On its specific role in the design and review of the EU/IMF macroeconomic adjustment programmes, the ECB has reported to the European Parliament as part of the work towards the "Enquiry report on the role and operations of the Troika (ECB, Commission and IMF) with regard to the euro area programme countries" by providing written answers to a questionnaire and by participating in a hearing of the competent committee on 13 February 2014.

Against this background, the ECB does not see itself in a position to participate in inquiries conducted by national parliaments and will therefore not appoint a dedicated contact person. However, please note that the ECB has published a number of documents on its website to provide additional information and to illustrate its views about macroeconomic developments in Ireland over recent years. These include an exchange of letters between President Trichet and Finance Minister Lenihan, a dedicated Q&A, speeches, interviews and legal opinions.

Please note that the fact that the ECB owes its accountability to European institutions does not preclude the possibility for the ECB to interact with national parliaments, as we have done on several occasions in the past. Nevertheless, such interaction would fall outside the scope of a parliamentary inquiry.

Yours sincerely,

Mario Draghi

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Website: www.ecb.europa.eu

An Comhchoiste Fiosrúcháin i dtaobh na Géarchéime Baincéireachta
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Joint Committee of Inquiry into the Banking Crisis

Leinster House
Dublin 2

Tel: (01) 618 3940
I.P. Tel: 076 100 1890
E-mail: bankinginquiry@oireachtas.ie

Our ref.: ibc-i-086

Mr Mario Draghi
President
European Central Bank
29 Kaiserstrasse
D-60311 Frankfurt am Main
Germany

By email to office.president@ecb.europa.eu

22 December 2014

Dear Mr. Draghi,

Thank you for your letter of the 5th of December 2014, concerning the request from the Joint Committee of Inquiry into the Banking Crisis for the assistance of the European Central Bank (ECB).

While the Joint Committee notes your comments about the legal situation regarding the accountability of European Institutions, including the ECB, the Committee is strongly of the view that co-operation of the ECB is critical to the Inquiry's examination of issues surrounding the banking crisis in Ireland and its impact on Irish citizens. The Committee intends not just to look to past circumstances but will also examine how our current systems are operating to ensure that we have a financial services infrastructure along with oversight institutions that are robust and fit for purpose to avoid such crises in the future.

In order to assist it in its work, the Committee requests that the ECB initially make available any documentation held concerning events leading up to the Irish Government decision to introduce a Bank Guarantee on 30th September 2008, including minutes of meetings, notes, diary entries, transcripts, recordings and any other relevant documentation. The Committee would be grateful to receive such documentation by 28 January 2015. In this regard the Committee also requests that the ECB give further consideration to appointing a dedicated contact person.

I would welcome the opportunity to discuss with the ECB how it could assist the Inquiry while respecting the ECB's primary accountability to the European Parliament.

Yours sincerely,

Ciaran Lynch

Ciaran Lynch T.D.
Chairman

Cuirfear fáilte roimh chomhfhreagras i nGaeilge

EUROPEAN CENTRAL BANK

EUROSYSTEM

Mario Draghi
President

Mr Ciaran Lynch T.D.
Joint Committee of Inquiry on the Banking Crisis
Leinster House
Dublin 2
Ireland

Frankfurt, 24 February 2015

L/MD/15/104

Re: Your letter of 22 December 2014

Dear Mr Lynch,

Thank you very much for your letter of 22 December 2014. Let me first of all underline that the ECB is fully committed to the principle of sincere cooperation as foreseen by the EU Treaties. At the same time, I would like to reiterate, as you also acknowledged in your letter, that the European Central Bank as a European institution is primarily held to account by the European Parliament as the representation of all the Union's citizens and hence does not participate in parliamentary inquiries on national level.

Nevertheless, I would like to inform you that while the ECB will not participate in the proceedings of your Committee, it could, in line with past practice between the ECB and national parliaments, take part in an informal exchange of views on matters within the remit of the ECB's mandate with the relevant committee(s) of the Irish parliament. Mr Vítor Constâncio, the Vice-President of the ECB and also the longest-serving Member of the Executive Board, stands ready to represent the ECB in such an exchange of views. I would be grateful if you informed the chairpersons of the relevant committee(s) in this regard.

As to your request for documentation, I would like to inform you that the records of the ECB do not contain any documentation concerning events leading up to the Irish Government decision to introduce a Bank Guarantee on 30 September 2008.

Yours sincerely,

Mario Draghi

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Website: www.ecb.europa.eu

An Comhchoiste Fiosrúcháin i dtaobh na Géarchéime Baincéireachta
Teach Laighean
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Leinster House
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Tel: (01) 618 3940
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E-mail: bankinginquiry@oireachtas.ie

Our ref.: ibc-i-277

Your ref.: L/MD/15/104

3 March 2015

Mr. Mario Draghi
President
European Central Bank
60640 Frankfurt am Main
Germany

Dear Mr. Draghi,

Thank you for your letter of 24 February 2015 which has been brought to the attention of the Joint Committee of Inquiry into the Banking Crisis.

While the Committee remains disappointed that the ECB will not participate in the proceedings of the Inquiry, it welcomes your suggestion that ECB Vice-President, Mr. Mario Constancio, would be available to participate in an informal exchange of views on matters within the remit of the ECB mandate with the relevant Oireachtas Committees. The Committee will give further consideration to this suggestion and I will revert to you on this matter in due course.

The Committee also notes the statement in your letter that the records of the ECB do not contain any documentation concerning events leading up to the Irish Government decision to introduce a Bank Guarantee.

Yours sincerely,

Ciarán Lynch, T.D.
Chairman

An Comhchoiste Fiosrúcháin i dtaobh na Géarchéime Baincéireachta
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Joint Committee of Inquiry into the Banking Crisis

Leinster House
Dublin 2

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E-mail: bankinginquiry@oireachtas.ie

Our ref.: ibc-i-458

Mr Mario Draghi
President
European Central Bank
29 Kaiserstrasse
D-60311 Frankfurt am Main
Germany

By email to office.president@ecb.europa.eu

2 April 2015

Dear Mr. Draghi,

Thank you for your letter of 24 February 2015. While the Committee remains disappointed that the European Central Bank will not participate in the Oireachtas Banking Inquiry, it welcomes that the ECB is willing, in line with past practice between the ECB and national parliaments, to take part in an informal exchange of views on matters within the remit of the ECB's mandate, with the relevant committee of the Oireachtas. I can advise you that the Joint Committee on Finance, Public Expenditure and Reform is the relevant Oireachtas Committee for such purposes and accordingly I have passed your letter to Mr. Liam Twomey T.D., the Chairman of that Committee.

Yours sincerely,

Ciaran Lynch T.D.
Chairman

An Comhchoiste Fiosrúcháin i dtaobh na Géarchéime Baincéireachta
Teach Laighean
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Joint Committee of Inquiry into the Banking Crisis

Leinster House
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Our ref: ibc-i-459

Liam Twomey T.D.,
Chairman,
Joint Committee on Finance, Public Expenditure and Reform,
Leinster House,
Dublin 2.

2 April 2015

Dear Chairman,

I refer to the attached correspondence received from Mr. Mario Draghi, President of the ECB in response to the invitation of the Joint Committee of Inquiry into the Banking Crisis ("the Inquiry Committee") to the ECB to participate in the Inquiry, and to the Inquiry Committee's response to Mr. Draghi (also attached).

As you will note from our response, we have advised the ECB that the Joint Committee on Finance, Public Expenditure and Reform is the relevant Oireachtas Committee for the purpose of an informal exchange of views with the ECB on matters within the remit of its mandate.

The Inquiry Committee would appreciate if the Joint Committee could agree to faciliate engagement with the ECB by formally inviting Mr Constancio to a meeting of the Joint Committee. As there is significant overlap in the membership of both committees, in order to enable dual members to participate in this proposed meeting, the preferred date options are 16, 22 or 23 July, with a preference for either of the latter two dates.

The Inquiry Committee would also, as part of this request, ask that the Joint Committee consider engaging with the ECB on the basis that the meeting will be held in public in accordance with the usual practice of Oireachtas Committees. This is important in order that there is a record of the discussions with the Joint Committee which can be drawn upon as evidence for the Inquiry Report.

While the agenda and arrangements for any such meeting are a matter for the Joint Committee, I am attaching the areas which should be of mutual interest to both Committees with a request that these be taken on board by the Joint Committee should it agree to invite the ECB.

Yours sincerely,

Ciarán Lynch, T.D.
Chairman.

PROPOSED MEETING WITH MR VITOR CONSTANCIO, ECB

Topic: Role and mandate of the ECB in the context of Ireland's Banking Crisis, 2006-2013

Specific areas of interest:

Regulatory, Supervisory & Government					Crisis Management Systems & Policy Responses			
Effectiveness of the regulatory, supervisory and governmental regime structure	Effectiveness of the supervisory practice (Central Bank, Financial Regulator and Department of Finance)	Appropriateness and effective utilisation of the expert advice	Relationship with and oversight by international stakeholders	Effectiveness of the policy and institutional responses post crisis	Appropriateness and effectiveness of the Department of Finance actions during crisis	Appropriateness and effectiveness of international Ireland-specific policy responses	Appropriateness and effectiveness of other EU-wide policy responses	Impact of the crisis on bank creditors
R1	R2	R4	R6	R7	C3	C5	C6	C7
a. Appropriateness of the regulatory regime	**b.** Nature and effectiveness of the operational implementation of the macro economic and prudential policy	**a.** Appropriateness of the expert advice sought, quality of analysis of the advice and how effectively this advice was used	**a.** Adequacy and impact of international organisations' oversight on banking regulation and supervision activity	**c.** Effectiveness of the current regulatory and supervisory structure	**b.** Appropriateness of the bank guarantee decision	**a.** European Union (EU)/ International Monetary Fund (IMF)/European Central Bank (ECB) programme of assistance	**b.** Banking Union (Single Supervisory Mechanism, Single Resolution Mechanism, Deposit Guarantee Scheme)	**a.** Options for burden sharing during the period 2008-2013
		c. Analysis and consideration of the response to contrarian views (internal and external)	**b.** Quality and effectiveness of European policies and regulations			**b.** The liquidation of Irish Banking Resolution Company (IBRC), the promissory notes refinancing and the relationships with the ECB	**c.** Other – Fiscal Compact Treaty, Sovereign Debt Restructuring Mechanism	**b.** Role of the euro zone and international partners in this decision
							d. Role and influence of the ECB	

Cuirfear fáilte roimh chomhfhreagras i nGaeilge

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Joint Committee on Finance, Public Expenditure and Reform
Leinster House
Dublin 2

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Fax (01) 618 4123

Ref: I 2015/729

23 April 2015

Mr Victor Constancio
Vice President
European Central Bank
29 Kaiserstrasse
D-60311 Frankfurt am Main
Germany

ECB Mandate: Exchange of Views Meeting

Dear Mr Constancio

I refer to the letter enclosed dated 24 February 2015 from the President of the Central Bank, Mr Mario Draghi, to the Irish Parliament's Joint Committee of Inquiry on the Banking Crisis. Mr Draghi's letter is a response to an invitation from that Committee for the President to appear before it. Mr Draghi explains that the ECB does not participate in parliamentary inquiries. However, he indicates your availability to represent the ECB in an exchange of views on the ECB's mandate with the relevant committee.

As the role of the ECB is also an area of great interest for the Joint Committee on Finance, Public Expenditure and Reform, we would therefore like to avail of the opportunity to invite you to a meeting of our Committee to discuss the ECB's mandate in the context of Ireland's Banking Crisis 2006-2013. We propose a meeting in July of this year and put forward three dates in order of preference of 22, 23 or 16 July 2015.

I would ask that your office makes contact with the Secretariat of the Committee at fincom@oireachtas.ie or on 353 1 6183189 to discuss practical arrangements. I also attach the membership and terms of reference of our Committee.

I very much look forward to welcoming you to a meeting of the Committee in Dublin.

Yours sincerely

Liam Twomey, T.D.
Chairman

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Ref: I 2015/730

23 April 2015

Mr Mario Draghi
President
European Central Bank
60640 Frankfurt am Main
Germany

ECB Mandate: Exchange of Views Meeting

Dear Mr Draghi

I refer to your letter of 14 April 2015 stating Mr Constancio's availability to represent the ECB in an informal exchange of views with this Committee.

We very much welcome this and have already written to Mr Constancio to make the practical arrangements.

I wish to thank you for your assistance in this matter.

Yours sincerely

Liam Twomey, T.D.
Chairman

Joint Committee on Finance, Public Expenditure and Reform

Correspondence Item No: 2015/1249

EUROPEAN CENTRAL BANK

EUROSYSTEM

Mario Draghi
President

Dr Liam Twomey T.D.
Chairman of the Oireachtas Committee of Finance,
Public Expenditure and Reform
Dáil Éireann
Leinster House
Dublin 2
Ireland

Frankfurt, 14 April 2015

L/MD/15/236

Re: Your letter of 3 March 2015

Dear Mr Twomey,

Thank you for your letter. As I have stated in my reply to the Members of the European Parliament representing Ireland of 24 February 2015, the European Central Bank (ECB) as a European institution is held to account by the European Parliament as the representation of all the Union's citizens. Therefore, the ECB does not participate in national parliamentary inquiries.

However, as stated in my letter to Mr Lynch, Chairman of the Joint Committee of Inquiry on the Banking Crisis, the ECB could, in line with past practice between the ECB and national parliaments, take part in an informal exchange of views on monetary policy matters related to the ECB's mandate with the relevant committee(s) of the Irish parliament. Mr Constâncio, the Vice-President of the ECB, stands ready to represent the ECB in such an exchange of views. Mr Lynch has informed me that he has passed my letter on to you as chairman of the relevant committee. Hence, the ECB is now looking forward to your response.

Yours sincerely,

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E-mail: office.president@ecb.europa.eu
Website: www.ecb.europa.eu

Joint Committee on Finance, Public Expenditure and Reform
Correspondence Item No: 2015/1315

EUROPEAN CENTRAL BANK

EUROSYSTEM

Vítor Constâncio
Vice-President

Mr Liam Twomey, T.D.
Chairman of the Joint Committee on Finance, Public Expenditure and Reform
Leinster House
Dublin 2
Ireland

Frankfurt, 29 May 2015

VC/2015/21

Re: Your invitation

Dear Mr Twomey,

Thank you for your invitation to participate in a meeting of the Joint Committee on Finance, Public Expenditure and Reform of the Oireachtas.

As ECB decisions affect citizens in all euro area Member States, accountability for these decisions needs be discharged at the directly-elected representation of all these citizens, which is the European Parliament. Hence, holding the ECB to account is the European Parliament's prerogative. In line with this principle, the ECB has also explained its decisions and stance on events in programme countries during the crisis, including in Ireland, to the European Parliament.

The ECB's accountability to the European Parliament does not preclude the ECB to engage in exchanges of views with national parliaments of the euro area to explain and discuss its monetary policy, as proposed by President Draghi in his letter to you. Nevertheless, the ECB does not participate in national parliamentary inquiries as this would amount to the ECB being held to account by a national parliament. Therefore, these two forms of engagement need to be clearly distinguished from each other.

Unfortunately, recent developments strongly suggest that the necessary clear separation between an exchange of views as outlined above and the work of the Committee of Inquiry into the Banking Crisis cannot be ensured.

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In particular, the Chairman of the Committee of Inquiry, Mr Lynch, stated during the recent event with Mr Trichet that "[t]he committee will be following up its own work with the ECB with Mr. Vítor Constâncio as well in the coming period", indicating a strong role of his committee in the meeting of your committee. Furthermore, referring to the exchange of views in which I would take part, he urged in a press release that "a written transcript of the meeting will be provided to the Committee for evidence", suggesting that my statements would be used as evidence in an inquiry in which the ECB does not participate. Finally, you stated in your invitation letter that an exchange of views with your committee would focus on "the ECB's mandate in the context of Ireland's Banking Crisis 2006-2013". This differs from what President Draghi had proposed in his letter to you, namely that an exchange of views would cover "monetary policy matters related to the ECB's mandate", and from what had been standard practice in the ECB's engagement with other national parliaments: to comprehensively discuss the ECB's monetary policy in the euro area. Instead, it seems that the focus would be given to the same time period and substance as the Committee of Inquiry.

All these developments imply that there would not be a clear difference between an exchange of view in your committee and the work of the Committee of Inquiry into the Banking Crisis. Under these circumstances, accepting your invitation would amount to the ECB *de facto* participating in the proceedings of the Committee of Inquiry and discharging accountability to the Oireachtas. It would also imply discriminating against other national parliaments where the ECB has not participated in national inquiries.

Therefore, the ECB cannot accept the invitation which you kindly extended to me as long as the Committee of Inquiry into the Banking Crisis will be collecting evidence. The ECB nevertheless will stand ready to participate in an exchange of views with your committee once the Committee of Inquiry will have delivered its final report. Such a meeting outside the context of the inquiry would in our view be the best way to ensure that the Oireachtas and the ECB can interact in the same way as the ECB has done so far with the national parliaments of Finland, France, Germany, Italy, and Spain, namely in an open exchange of views on the ECB's monetary policy.

Yours sincerely,

Vítor Constâncio

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Website: www.ecb.europa.eu

From: [redacted]
To: office.president@ecb.europa.eu,
Date: 30/07/2015 12:06
Subject: Oireachtas Banking Inquiry

Dear Mr Draghi,
I have been authorised by the above Committee to make contact with your office with a view to having a discussion with a nominated representative of the European Central Bank on the current situation regarding witness statements and evidence given at the Inquiry ,which reference the Role and influence of the E.C.B. I am happy to discuss this issue by way of conference call or by direct meeting with any representative you nominate should you wish to agree to this request..The Joint Committee wish to facilitate the E.C.B. in reviewing and responding to such statements or transcripts from public hearings .
Regards

[redacted]
Lead Investigator
[redacted]

From: [redacted]
To:

Cc:

Date: 10/08/2015 14:23
Subject: RE : Oireachtas Banking Inquiry

Dear [redacted]

Thank you for your email, which the President of the ECB forwarded to me. As stated in the correspondence between the President of the ECB and the Chairman of the Joint Committee of Inquiry into the Banking Crisis, Mr Lynch TD, the ECB owes its parliamentary accountability to the European Parliament and hence is not in a position to participate in the proceedings of the Joint Committee. Therefore, I hope you will understand that the ECB cannot accommodate your request for a conference call related to statements or transcripts from this committee.

Kind regards,

[redacted]

Deputy Director General

International and European Relations

Appendix 8: Banking Inquiry Support Staff

This list includes all staff who worked on the Banking Inquiry for varying durations and at various stages in the inquiry.

SECRETARIAT	
Inquiry Coordinator	Elaine Gunn
Clerk and Joint Committee support	John Hamilton, Treasa Carroll, Harriet Coughlan, Niamh Harmon, Darragh Gleeson, Fiona Armstrong, Charlene Flood
Administration, document management and witness support	Máirín Devlin, Elaine Cameron, Regina Boyle, Roisin Greene, Jim Fisher, Miriam Fletcher, Martina Daly, Tina Kelly, Paul Parsons, Ian Murray, Darren McArdle, Abraham Reta
Project and investigation support	Carmel Considine, Lorraine Barry, Maria Lyons, Elsie Wade
Press and web	Ciarán Brennan, Karin Whooley, Ultan Kelly

INVESTIGATION TEAM	
Senior/Lead Investigator, Banking Stream	Peter Murray, Peter Rossiter
Lead Investigator, Regulatory and Supervisory Stream	Helen Bunbury
Lead Investigator, Crisis Management and Policy Responses Stream	Pat McLoughlin
Investigation team	Helen Caulfield, St. John Cooke, Martin Corcoran, Gerry Cribbin, Wolf Delius, Val Diggin, David Douglas, Laurence Gordon, Eugene Loughran, Fergus MacLeod, Rory Mahon, Mike Mitchell, Michael Monaghan, Lorraine Morris, Francis O'Higgins, Paul Owens, Martin Roche, Paul Stephens, Orlaith Tierney, Eddy Van Cutsem
Editorial/finishing	Emily Farrell, Lucy O'Connell

LEGAL TEAM	
Inquiry Legal Adviser	Cathy Egan BL
In-house legal team	Kellie Butler BL, Morgan Crowe, Donal Fallon BL, Vivian Meacham BL, Sarah Reid BL, Miriam Rynn
External legal advisers	Patrick McCann SC, Charles Meenan SC, Sara Moorhead SC, Niall O'Hanlon BL, Patricia O'Sullivan Lacy BL

MEMBERS' PARLIAMENTARY ASSISTANTS

Members were entitled to one full-time Parliamentary Assistant (or part-time equivalent) to support their work on the Joint Committee.

Member	Parliamentary Assistant/s
Chairman, Ciarán Lynch	Tina Neylon
Pearse Doherty, T.D.	Conor McCabe
Joe Higgins, T.D.	Diana O'Dwyer
Michael McGrath, T.D.	Morgan Shelley
Eoghan Murphy, T.D.	Daragh McGreal
Kieran O'Donnell, T.D.	Ciara McGovern
John Paul Phelan, T.D.	Patrick Ryan, James Geoghegan, Paddy Manning
Senator Sean Barrett	Ursula Ní Choill, Charles Larkin
Senator Michael D'Arcy	Ciara Kavanagh, John Dreelan
Senator Susan O'Keeffe	Geoff McEvoy
Senator Marc MacSharry	Aidan O'Connor

Appendix 9: Proceedings of the Joint Committee: Consideration of Draft Report

JOINT COMMITTEE OF INQUIRY INTO THE BANKING CRISIS

EXTRACT FROM
MINUTES OF MEETING OF FRIDAY, 4 DECEMBER 2015

1. The Joint Committee met in **Private Session** at 2.15 p.m. in the Conference Room, Floor 4 West, Agriculture House, a quorum being present.

2. MEMBERS PRESENT

Deputies Pearse Doherty, Joe Higgins, Ciarán Lynch (Chairman), Michael McGrath, Eoghan Murphy, Kieran O'Donnell and John Paul Phelan.

Senators Seán Barrett, Michael D'Arcy and Susan O'Keeffe.

Apologies were received from Senator Marc MacSharry.

3. DRAFT REPORT OF THE JOINT COMMITTEE OF INQUIRY INTO THE BANKING CRISIS

The Chairman brought forward the draft report.

The draft report was read and amended.

Further consideration of the draft report was adjourned.

4. ADJOURNMENT

The Committee was adjourned at 12.34 a.m. until 9 a.m. on Saturday 5 December 2015.

Ciarán Lynch, T.D.

Chairman

31 December 2015

JOINT COMMITTEE OF INQUIRY INTO THE BANKING CRISIS

EXTRACT FROM
MINUTES OF MEETING OF SATURDAY, 5 DECEMBER 2015

1. The Joint Committee met in **Private Session** at 9.10 a.m. in Committee room 1, LH2000, a quorum being present.

2. MEMBERS PRESENT

Deputies Pearse Doherty, Joe Higgins, Ciarán Lynch (Chairman), Michael McGrath,

Eoghan Murphy, Kieran O'Donnell and John Paul Phelan.

Senators Seán Barrett, Michael D'Arcy, Marc MacSharry and Susan O'Keeffe.

3. DRAFT REPORT OF THE JOINT COMMITTEE OF INQUIRY INTO THE BANKING CRISIS (RESUMED)

The Committee resumed consideration of the draft report.

The draft report was further read and amended.

Further consideration of the draft report was adjourned.

4. ADJOURNMENT

The Committee was adjourned at 11.45 p.m. until 12 p.m. on Sunday 6 December 2015.

Ciarán Lynch, T.D.
Chairman
31 December 2015

JOINT COMMITTEE OF INQUIRY INTO THE BANKING CRISIS

EXTRACT FROM
MINUTES OF MEETING OF SUNDAY, 6 DECEMBER 2015

1. The Joint Committee met in **Private Session** at 12.15 p.m. in Committee room 1, LH2000, a quorum being present.

2. MEMBERS PRESENT

Deputies Pearse Doherty, Joe Higgins, Ciarán Lynch (Chairman), Michael McGrath, Eoghan Murphy, Kieran O'Donnell and John Paul Phelan.

Senators Seán Barrett, Michael D'Arcy, Marc MacSharry and Susan O'Keeffe.

3. DRAFT REPORT OF THE JOINT COMMITTEE OF INQUIRY INTO THE BANKING CRISIS

The Committee resumed consideration of the draft report.

The draft report was further read and amended.

The report, as amended, was agreed, Deputies Doherty and Higgins dissenting.

It was agreed to forward the report to Senior Counsel for legal review.

4. ADJOURNMENT

The Committee was adjourned at 10.30 p.m. until 10 a.m. on Thursday 10 December 2015.

Ciarán Lynch, T.D.
Chairman
31 December 2015

JOINT COMMITTEE OF INQUIRY INTO THE BANKING CRISIS

EXTRACT FROM
MINUTES OF MEETING OF THURSDAY 10 DECEMBER 2015

1. The Joint Committee met in **Private Session** at 10.10 a.m. in Committee room 1, LH2000, a quorum being present.

2. MEMBERS PRESENT

Deputies Pearse Doherty, Joe Higgins, Ciarán Lynch (Chairman), Michael McGrath, Eoghan Murphy, Kieran O'Donnell and John Paul Phelan.

Senators Seán Barrett, Michael D'Arcy, Marc MacSharry and Susan O'Keeffe.

3. DRAFT REPORT OF THE JOINT COMMITTEE OF INQUIRY INTO THE BANKING CRISIS

The draft report was again read and amended, having regard to the review of the draft report by Senior Counsel.

The report, as amended, was agreed, Deputies Doherty and Higgins dissenting.

Pursuant to S.35 of the Houses of the Oireachtas (Inquiries, Privileges and Procedures) Act 2013, it was agreed to send the draft report to persons named or identifiable in the report. Further, the Committee considered and agreed a list of certain persons to whom the draft report should be sent.

4. ADJOURNMENT

The Committee was adjourned at 3.18 p.m. *sine die.*

Ciarán Lynch, T.D.

Chairman

31 December 2015

JOINT COMMITTEE OF INQUIRY INTO THE BANKING CRISIS

EXTRACT FROM
MINUTES OF MEETING OF THURSDAY 31 DECEMBER 2015

1. The Joint Committee met in **Private Session** at 9.39 a.m. in Committee room 1, LH2000, a quorum being present.

2. MEMBERS PRESENT

Deputies Pearse Doherty, Joe Higgins, Ciarán Lynch (Chairman), Michael McGrath, Eoghan Murphy, Kieran O'Donnell and John Paul Phelan.

Senators Seán Barrett, Michael D'Arcy, Marc MacSharry and Susan O'Keeffe.

3. DRAFT REPORT OF THE JOINT COMMITTEE OF INQUIRY INTO THE BANKING CRISIS

The Committee considered 32 requests/statements received from persons who had been given a copy of the draft report pursuant to S.38 and S. 39 of the Houses of the Oireachtas (Inquiries, Privileges and Procedures) Act 2013.

Having regard to the requests/statements received, the Committee agreed to amend the draft report.

The Report, as amended, was agreed. It was further agreed, on expiry of the 21 day 'standstill' period required under S. 39(4) of the Houses of the Oireachtas (Inquiries, Privileges and Procedures) Act 2013, to forward the report to the Clerks of both Houses for circulation to members in accordance with Standing Orders.

4. ADJOURNMENT

The Committee was adjourned at 2.49 p.m. *sine die.*

Ciarán Lynch, T.D.

Chairman

14/1/16

JOINT COMMITTEE OF INQUIRY INTO THE BANKING CRISIS

EXTRACT FROM
MINUTES OF MEETING OF THURSDAY 14 JANUARY 2016

1. The Joint Committee met in **Private Session** at 1.35 p.m. in Committee room 1, LH2000, a quorum being present.

2. MEMBERS PRESENT

Deputies Joe Higgins, Ciarán Lynch (Chairman), Michael McGrath, Eoghan Murphy, Kieran O'Donnell and John Paul Phelan.

Senators Seán Barrett, Michael D'Arcy, Marc MacSharry and Susan O'Keeffe.

Apologies were received from Deputy Pearse Doherty

3. DRAFT REPORT OF THE JOINT COMMITTEE OF INQUIRY INTO THE BANKING CRISIS

The Committee considered further correspondence from two persons who had previously submitted statements on the draft report pursuant to S.38 and S.39 of the Houses of the Oireachtas (Inquiries, Privileges and Procedures) Act 2013.

Having considered the issues raised in the correspondence and having also considered advice from Senior Counsel, the Committee agreed to amend the draft report.

The report, as amended, was agreed. It was further agreed that, on expiry of the 21 day 'standstill' period required under S. 39(4) of the Houses of the Oireachtas (Inquiries, Privileges and Procedures) Act 2013, that the Committee would meet to finalise the report prior to forwarding the report to the Clerks of both Houses for circulation to members in accordance with Standing Orders.

4. ADJOURNMENT

The Committee was adjourned at 2.12 p.m. *sine die*.

Ciarán Lynch, T.D.

Chairman

26 January 2016