

**Inquiry pursuant to Part IIIC of the Central Bank Act 1942 (as amended) concerning permanent tsb
p.l.c. (PTSB) & Mr David Guinane (the “Inquiry”)**

**Hearing (Held in Public)
Wednesday, 29 January 2025**

Opening Statement of Mr Peter Hinchliffe

Introduction

Good morning and thank you for attending. My name is Peter Hinchliffe and I am the sole Inquiry Member.

1. This Inquiry was constituted under section 33AO(2) of the 1942 Central Bank Act, as amended, which provides as follows:

“(2) Whenever the Bank suspects on reasonable grounds that a person concerned in the management of a regulated financial service provider is participating or has participated in the commission of a prescribed contravention by the financial service provider, it may hold an inquiry to determine whether or not the person is participating or has participated in the contravention”.

2. The inquiry has been considering an allegation that Mr. Guinane was a person concerned in the management of the bank now called PTSB when it was a regulated financial service provider and that during the period from 19 January 2009 to April 2010, he participated in a breach by PTSB of its regulatory obligations. Section 33AQ(2) of the 1942 Act provides:

“At the conclusion of an inquiry relating to the conduct of a person concerned in the management of a regulated financial service provider, the Bank shall make a finding as to whether the person is participating or has participated in the prescribed contravention to which the inquiry relates”.

3. By way of background, between November 2021 and February 2024, the Inquiry dealt with procedural, documentary and other matters preliminary to the substantive hearing itself, and six Inquiry Management Meetings (IMM) were held. A Legal Issues Hearing was held over four days in October 2023 and the Substantive Inquiry Hearing commenced on 21 February 2024 and concluded on 15 March 2024. The Inquiry heard evidence from 11 witnesses including former PTSB employees from the marketing, compliance and legal departments, Central Bank staff and Mr Guinane. Witness Statements were received from an additional three individuals who were not required to give oral evidence.
4. On 8 November 2024 I issued my finding and the reasons for the finding to the participants in this Inquiry together with certain background information and supporting documentation (I will call these the **Written Findings**).
5. I found that Mr Guinane, was during the Relevant Period a person concerned in the management of Irish Life & Permanent Group Holdings plc (whose retail banking operation was known as PTSB at that time) and which was a regulated financial services provider.

6. I concluded in the Written Findings that, on the balance of probabilities, Mr Guinane participated in PTSB's failure during the Relevant Period, to ensure that it acted fairly in the best interests of its customers, as required by General Principle 1 of the Consumer Protection Code 2006, when it dealt with customers who indicated their intention to return to a tracker-rate loan and whose mortgage loan agreements contained a contractual clause known as SC706. During the Relevant Period, PTSB adopted a process that avoided offering the original tracker rate to which certain customers whose contracts contained SC706 were entitled, unless the customer queried or complained about the rate they were offered. Mr Guinane's participation arose, by way of summary, as a result of his failure to consider the implications for customers when signing off on a proposal to adopt that process.
7. The grounds on which my finding is based are fully set out in the Written Findings, which run to 197 pages and which have been seen by all participants in this hearing. I do not propose to summarise them any further.
8. I stated in the Written Findings that my view was that there are mitigating factors to be taken into account in considering the seriousness of Mr Guinane's participation in PTSB's prescribed contravention and that I would seek submissions with regard to sanction and any mitigating factors.
9. I also stated in the Written Findings that I thought it appropriate to clarify my position at this stage on some issues that have been of understandable concern to Mr Guinane during the course of this public inquiry, even where they are not essential to my overall conclusion. I take this opportunity to clarify that in the Written Findings:
 - a) There is no finding of dishonesty against Mr Guinane;
 - b) Mr Guinane did not form an intention to harm or take advantage of customers;
 - c) Mr Guinane was entitled to receive better support from within the Irish Life & Permanent Group; and
 - d) The ultimate responsibility for regulatory compliance in PTSB during the Relevant Period lay with the board of Irish Life & Permanent Group, of which Mr Guinane was not a member.
10. As a finding has been made that Mr Guinane is a person concerned in the management of a RFSP and that he has participated in a prescribed contravention, I am required under section 33AQ(5) of the 1942 Act to consider what (if any) sanctions are to be imposed on Mr Guinane. The potential sanctions are set out at section 33AQ (5) and (6) of the 1942 Act and include;
 - a caution or reprimand;
 - a direction to pay a monetary penalty not exceeding €500,000;
 - a direction disqualifying the person from being concerned in the management of a regulated service provider for a specified period; and/or
 - a direction to pay to the Central Bank all or a specified part of the costs incurred by the Bank in holding the inquiry and in investigating the matter to which the inquiry relates.
11. In accordance with section 8.1 of the Outline Procedure for the Inquiry I have now convened a sanctions hearing to determine whether any sanction should be imposed, and if so, what the

nature of the sanction or sanctions should be. I have invited and received written submissions on sanction from Mr Guinane and Enforcement. I have sought additional information that may be required so that a decision can be made on sanction. At this hearing, Mr Guinane and Enforcement will be afforded an opportunity to make oral submissions.

12. This hearing is being heard in public subject to a claim of legal professional privilege which has been maintained by PTSB throughout the inquiry. In order to preserve PTSB's legal rights in this regard, oral submissions which touch upon any "protected material", as this term is defined in the Inquiry's Privilege Protocol, will not be heard in public, and the hearing will move from being public into being private. Members of the public will not be permitted to watch or hear the hearing when it sits in private.
13. Following the conclusion of the sanctions hearing, I will issue a final written decision, which will set out my finding, the grounds on which the finding is based and the sanctions (if any) imposed.
14. I will now take appearances from those present.