

**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”)**

**Legal Issues Hearing and Inquiry Management Meeting (Held in Public)  
Commencing on Wednesday, 11 October 2023**

**Opening Statement of Mr Peter Hinchliffe**

Good morning.

Welcome to the Legal Issues Hearing and sixth Inquiry Management Meeting in respect of an Inquiry being held under Part IIIC of the Central Bank Act 1942 concerning permanent tsb p.l.c. (to whom I shall refer as PTSB) and Mr David Guinane. I am Peter Hinchliffe, the sole Inquiry Member.

This is only the second hearing to be held in public so I will briefly repeat the background to this matter:

Notice of the Inquiry was issued on 9 November 2021 to Mr Guinane and thereafter to PTSB. The notice explained that the Central Bank of Ireland had determined that it has reasonable grounds to suspect that Mr Guinane participated in the commission of a prescribed contravention by PTSB during the period from 19 January 2009 to April 2010 whilst he was a person concerned in the management of PTSB.

The prescribed contravention which PTSB is suspected of having committed and which the Central Bank suspected Mr Guinane of having participated in can be summarised as follows:

During the relevant period – that is from January 2009 to April 2010 – PTSB decided to apply, or decided to continue to apply, an interest rate for tracker mortgage customers (who were coming off a temporary fixed rate) that was less favourable except where the customer raised specific queries about the rate they were to be charged.

The Central Bank suspects that PTSB treated those customers who did not complain about the tracker rate that was applied after the fixed rate period, unfairly and contrary to their

best interests when compared to those that actually complained i.e. by only giving the more favourable tracker rate to those who complained or queried.

The Central Bank suspects that this was a breach of General Principle 1 of the Consumer Protection Code 2006 which required PTSB to, amongst other things, “ensure that in all its dealings with customers and within the context of its authorisation it acts honestly fairly and professionally in the best interests of its customers and the integrity of the market.”

The Central Bank also suspects that Mr Guinane, in his role as Chief Executive Officer of PTSB, participated in PTSB’s breach of the Consumer Protection Code 2006.

Four days have been set aside for this Legal Issues Hearing and Inquiry Management Meeting. During this time, I intend to hear oral submissions from the participants to the Inquiry on a number of key issues of law that may be important in deciding the outcome of the Inquiry and, which may be capable of being decided without reference to the particular facts that have to be determined in the course of this Inquiry. The participants have furnished written legal submissions in advance of today’s hearing on these issues of law, for which I am grateful and which I have considered.

I expect that this Legal Issues Hearing will save time that would otherwise have been taken at the Substantive Inquiry Hearing on 21 February 2024 to enable the participants to address me on these key issues of law.

I also hope and expect that this Legal Issues Hearing may serve to narrow issues for the participants, thereby leading to a more efficient Substantive Inquiry Hearing. I will also in due course consider whether I may, consistent with the statutory requirements set out in the legislation, make one or more provisional or preliminary legal rulings where this is possible in advance of the Substantive Inquiry hearing.

Once the Legal Issues Hearing is complete, I will commence the Inquiry Management Meeting at which I wish to ensure that all participants are aware of the steps required to prepare for the Substantive Inquiry Hearing on 21 February 2024 and the timetable to be followed. The Management Meeting will also provide the participants with an opportunity to raise, or comment upon, any remaining procedural matters, which need to be dealt with in advance of the commencement of the Substantive Inquiry Hearing.

Lastly, please note that certain evidence relevant to the outcome of the Inquiry is subject to a claim of legal professional privilege. Accordingly, in order to preserve legal rights in this regard, evidence and oral submissions which touch upon this material will not be heard in public.

I will now take appearances from those present.