The news that the Central Bank doesn't need you to know...

Fingleton banking inquiry stopped after he is deemed too sick

By **Michael O'Farrell**
INVESTIGATIONS EDITOR

THE Central Bank quietly dropped its inquiry into disgraced banker Michael Fingleton on Friday – without publicising the decision at all. The decision on medical grounds means the one-time chief executive of the Irish Nationwide Building Society (INBS) will never be held accountable for his role in its collapse.

Under Mr Fingleton's legendary control, INBS became one of Ireland's most toxic boom-time banks, costing taxpayers €5.4billion when bailed out.

Yet Mr Fingleton walked away from the crippled bank with a €30million pension pot, saying he regretted none of the decisions he had made during his 38-year tenure.

Until now Mr Fingleton was facing the possibility of punitive sanctions for breaches of banking law up to and including a €500,000 fine. Friday's decision to grant him a 'permanent stay' means he can never be sanctioned.

In reaching its decision the inquiry relied on benchmarks set out in laws relating to criminal insanity. Despite the significance of the move to end its examination of Mr Fingleton, the Central Bank made no public announcement at all this weekend.

Instead, the decision was placed on the Central Bank's website – shortly before close of business on the last Friday before Christmas.

Meanwhile, the multi-million-euro cost of the inquiry to date remains secret as the Central Bank has refused to release figures, saying to do so would undermine the work of the examination and encroach on the right to privacy of lawyers involved.

'The humane decision is to terminate the inquiry'

The move to grant a 'permanent stay' to Mr Fingleton came after his son – Michael Fingleton Jnr – emailed the inquiry in June to ask that it to 'terminate' its examination of his father on medical grounds.

On June 7, Mr Fingleton Jnr wrote: 'It is highly unlikely that he will be able to partake in any way with the inquiry going forward.'

Mr Fingleton Jnr – himself a former INBS executive who snubbed the inquiry by refusing to testify – said his father was suffering from medical problems beyond those which had already delayed the inquiry.

In subsequent private hearings and correspondence, the inquiry heard evidence from doctors and consultants about a 'medical event' Mr Fingleton had suffered in May.

The inquiry heard this event was of an entirely different nature to previous medical problems – which did not require hospitalisation – that had seen Mr Fingleton repeatedly seek adjournments (see panel).

Shortly after the event in May, one clinician stated: 'The prognosis for recovery from the episode is good and he is making slow improvement.'

The clinician added that '[Mr Fingleton] will not be able to take part in the Inquiry on either an oral or written basis for the next month.'

Subsequently, other doctors advised further recovery time was required.

In July, a different physician gave an opinion that Mr Fingleton 'will be unable to participate in any inquiry for the foreseeable future. It will be at least six weeks before we have a clear idea of Mr Fingleton's ultimate outcome.'

In September, one of these doctors appeared before the inquiry and gave evidence in a private hearing. In November, a further report by another clinician stated that Mr Fingleton would 'not able to participate in an enquiry'.

And on Friday, the members of the Central Bank inquiry – solicitor Marian Shanley, barrister and accountant Ciara McGoldrick and career banker Geoffrey McEnery – agreed to a 'permanent stay'.

Friday's decision came after Mr Fingleton Jnr made a written submission on December 2.

'I do think it is important to state publicly that the medical reverse which Mr Fingleton suffered in May of this year is of a particular serious nature, and it's one from which on the medical evidence he has not recovered,' he wrote.

Mr Fingleton Jnr invoked the protection of the European Convention on Human Rights and the Irish Constitution. 'The correct and humane decision is to terminate the inquiry insofar as it relates to him and thereby not contribute further to his trauma which could have serious and tragic consequences,' he wrote.

In summation of its decision, the inquiry members accepted the evidence that 'Mr Fingleton's health is permanently impaired to the extent that he is currently and, in all likelihood, will remain unable to effectively participate in the Inquiry.'

The panel added that they 'are conscious of the public interest aspect of this inquiry but that public interest is not so exceptional as to override Mr Fingleton's rights to fair procedures'.

In reaching its decision the panel used Section 4 of the Criminal Law (Insanity) Act 2006 which outlines the test to be applied when deciding if someone is fit to stand trial.

By that benchmark, a person is deemed unfit to stand trial if by 'reason of mental disorder' they cannot understand the nature of proceedings, plead to a charge, instruct legal representation or understand the evidence.

In making their decision to end proceedings against Mr Fingleton the inquiry members said they found these benchmarks 'useful in determining whether Mr Fingleton had the capacity to effectively participate in the inquiry'.

The MoS asked the Central Bank why Friday's decision had not been publicised. A spokesperson for the Central Bank responded by outlining when and how the inquiry had been set up in 2015.

'Inquiry members were appointed from a panel and these inquiry members decide how the inquiry will proceed and the procedures to be followed. This includes the publication on any decisions or determinations by the inquiry,' the spokesperson said, before directing the MoS to the inquiry quidelines on its website.

The spokesperson added: 'The Central Bank cannot comment on the specific issues around the INBS inquiry hearing while proceedings are ongoing.

'This includes details of costs incurred. We expect to publish costs when the inquiry has concluded.

'Throughout the course of the inquiry updates have been published on our website.'

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PROBE: Michael Fingleton is deemed too sick for the inquiry

ONE APPEARANCE IN 3 YEARS

MICHAEL Fingleton travelled abroad to secure a €10million property sale at the same time he told the Central Bank Inquiry he was too ill to attend.

Mr Fingleton was to begin giving testimony in January 2018, but instead sought the first of several adjournments on medical grounds.

As revealed by the MoS, in an award-winning article, Mr Fingleton used the time to travel to Montenegro where he signed a €10million deal to sell Hotel Fjord in Kotor.

Mr Fingleton – who took and lost a court action to prevent the Central Bank inquiry – attended in December 2017.

He accused the inquiry of being 'an artificially trumped-up case'. After his opening statement, he never attended again due to illness.

His son, Michael Fingleton Jnr, who once ran the bank's London operation, also refused to attend when asked.

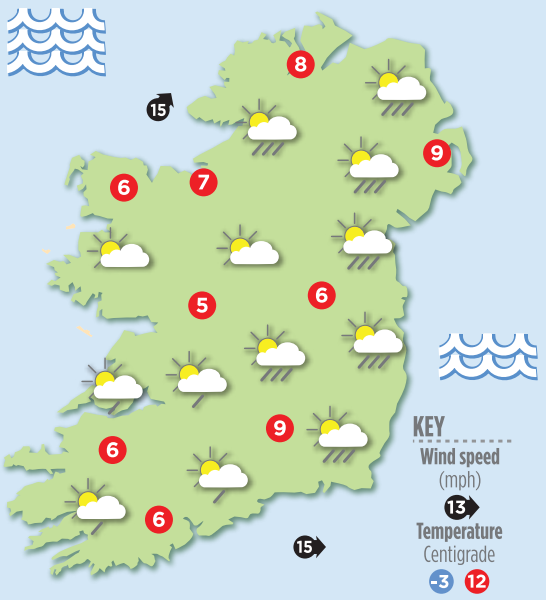
In 2012, Mr Fingleton Jnr became landlord of a £12million London office block bought for £5million in cash from developer Seán Dunne. The property, which is owned anonymously offshore, was bought after Michael Fingleton Sr transferred two cash amounts from Montenegro to the bank account of his son.

Fingleton was in Montenegro while 'too ill' to attend Central Bank inquiry

TIMELINE TO SALE OF FINGERS' HOTEL

ADJOURNMENT: How the Mail on Sunday reported Fingleton's trip

Weather



FORECAST

GENERAL FORECAST
It will be a wet start to the day with a few outbreaks of rain. This will then clear to leave a few sunny spells for a time. It will then cloud over from the south with a few showers, some of which will be wintry in nature.

REGIONAL FORECASTS
Leinster: It will start off wet, but will clear to leave some sunny spells. Rain arriving later in the afternoon. Tonight, showers, some wintry. Max temp 9C (48F). Min temp 2C (36F).
Dublin: A wet start, clearing to leave some sunny spells. However, it will cloud over later with some showers. Tonight, a few showers. Max temp 9C (48F). Min temp 3C (37F).
Ulster: A wet start, clearing to leave some sunny spells for a time. Clouding over later with showers, some wintry. Tonight, wintry showers. Max temp 8C (46F). Min temp 0C (32C).
Connacht: A wet start, clearing to leave some sunny spells. However, it will cloud over later with wintry showers. Tonight, Showers, some wintry. Max temp 8C (46F). Min temp 0C (32F).
Munster: A wet start, clearing to leave some sunny spells and variable cloud. Showers arriving later in the day. Tonight, A few showers. Max temp 9C (48F). Min temp 2C (36F).

WEEK AHEAD
Monday will be breezy with some showers, mainly in western areas, some wintry for a time. Showers will spread into the east later in the day. Tuesday will be windy with some outbreaks of rain, a few wintry showers but also a few sunny spells as well. Wednesday looks set to be a drier day with some lighter winds. There will be a few sunny spells, along with some variable cloud and showers in the north. Thursday and Friday look to be more unsettled with rain and strong winds.

SIX-DAY FORECAST

	MON	TUE	WED	THU	FRI	SAT
DUBLIN	6	5	8	10	11	11
CORK	5	6	9	10	11	11
BELFAST	6	6	7	10	10	10
GALWAY	4	5	8	10	10	10
LIMERICK	5	6	9	10	11	11
DERRY	5	5	7	9	10	10
KILKENNY	5	5	8	11	10	11

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11 27 29 34 35 40 BONUS 46

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3 5 10 18 19 46 8

LOTTO PLUS2 DRAW
3 14 24 38 39 44 35

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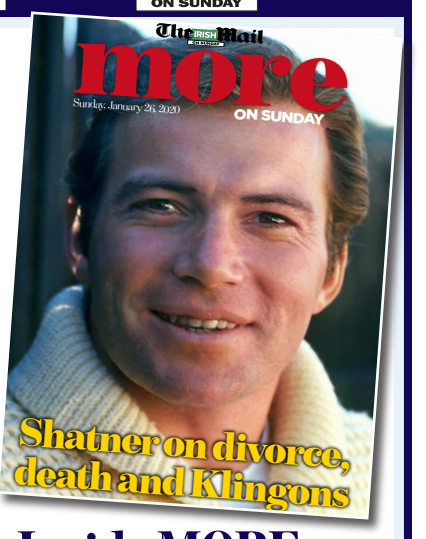

Inside MORE
William Shatner on his wife's death

Funds crisis puts future of charity in the balance

By **Michael O'Farrell**
INVESTIGATIONS EDITOR

THE future of a taxpayer-funded charity which provides services to thousands is hanging in the balance amid a continuing cash crisis, the Irish Mail on Sunday can reveal.

St John of God Community Services (SJOGCS) has failed to secure funding commitments from the HSE and, as a result, has been unable to sign off on its 2018 accounts which are more than four months overdue.

Failing to file accounts is a breach of company law that can result in being struck off. It is also a breach of the charity's 2018 Service Level Agreement with the HSE.

In 2017, SJOGCS received more than €140m from the taxpayer via the HSE to care for more than 8,000 mental health and intellectually disabled clients nationwide.

> 'Well in excess of overdraft limits'

SJOG Community Services reported a deficit of €9m in 2017 and a further 'substantial deficit' was predicted for 2018. The size of the current shortfall is unknown.

However, it is known that in April 2018 the HSE agreed to a €3.5m top-up and provided a further €3m advance the following month. It is likely that further advances have been made since.

As crisis talks with the HSE continue, SJOGCS has warned that it is operating 'well in excess of overdraft limits' and has been forced to delay payments to suppliers.

The charity has also warned that it does not have the funding 'required to meet ongoing regulatory requirements'. The impact of this has been seen in repeated criticism of care standards by watchdog Hiqa.

The crisis at the charity has been exacerbated by repeated scandals uncovered by MoS investigations in recent years. These include €6m in top-ups secretly paid to senior managers – at a time when the SJOGCS was telling the HSE no such payments were being made. Additionally, the St John of God Order – which controls the charity – was exposed as having sent a religious brother facing repeated allegations of child abuse to work with children in Malawi.

The current cash crisis has also been augmented by clear signals from the SJOG Order that it is no longer able or willing to provide bailout funding.

In the absence of assurances from the HSE about continued funding, the entire future of the charity remains at risk and a takeover of certain operations by the HSE remains a possibility.

In a statement to the MoS, a spokesman for SJOG said the entire mental health sector had been underfunded for years resulting in 'serious financial hardship'.

The spokesman said that the charity 'treats its governance and financial reporting duties with the utmost importance'. However, he said that the 2018 accounts cannot be signed off on without 'financial assurances in respect of additional funding'.

A spokesman for the HSE said: 'The HSE is working with SJOGCS in relation to ensuring the sustainability of services and supports for vulnerable adults and children.'

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ST JOHN OF GOD CHIEF'S SECRET €2M PAYMENTS

ST JOHN OF GOD WAS ON BRINK OF COLLAPSE

IN THE MIRE: The St John of God charity has been the focus of several MoS exposés

CORRECTIONS & CLARIFICATIONS

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DELICIOUS NEW YEAR RECIPES FOR A HEALTHIER YOU

DRUG FIRMS' SECRET €5.2M TO DOCTORS

Flight tickets, hotel bills and expenses picked up by manufacturers

EXCLUSIVE

By Michael O'Farrell
INVESTIGATIONS EDITOR

IRISH doctors have pocketed €5m in secret payments in recent years from the largest five pharmaceutical firms, the Irish Mail on Sunday can reveal.

But Health Minister Simon Harris has failed to progress legislation, first proposed nearly three years ago, that would force all doctors to declare

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Adele's New Year new beach body

Full Story Page 11

Secret payments: doctors get €5m from drug firms

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all payments from medical firms.

Meanwhile, hundreds of doctors and hospital consultants continue to secretly pocket millions in payments from pharmaceutical firms while refusing to allow their names to be made public.

The payments – known as transfers of value by the industry – have been published each year since 2015 by the Irish Pharmaceutical Healthcare Association (IPHA), which represents 44 of the largest drugs firms.

However, many doctors continue to refuse to allow their names to be released, leaving their patients with no idea which firms are paying them.

This raises vital questions about the potential for conflicts of interest when these doctors are prescribing medications to patients or purchasing drugs for publicly funded hospitals.

The payments cover fees and the travel and accommodation expenses of medical practitioners who attend conferences sponsored by pharmaceutical firms throughout the world.

Many benefit to the tune of €20,000 a year

Some doctors are listed as travelling to more than half a dozen such conferences annually with all expenses paid. Many benefit to the tune of more than €20,000 a year.

Representative bodies such as the Irish Medical Organisation (IMO), the Irish College of General Practitioners (ICGP) and the Irish Hospital Consultants Association (IHCA) all advise their members to declare such payments.

They also say the present system is unfair because those who agree to be named can be singled out while those who refuse to be transparent remain nameless.

Typically the amount paid to doctors and health institutions by IPHA members each year amounts to approximately €30m – a figure that has remained consistent since 2015.

However, an MoS analysis of the first four years of data shows the top five paying firms alone – Novartis, Abbvie, Pfizer, Roche and A Menarini – have paid out more than €15m between 2015 and 2018.

FIVE COMPANIES PAID OUT OVER €15M IN FOUR YEARS

NOVARTIS

NOVARTIS
- Payments to unnamed doctors 2015 - 2018 €1,629,235
- Payments to named doctors 2015 - 2018 €2,315,165
- OVERALL €3,944,400 paid to doctors by Novartis in four years.

abbvie

ABBVIE LTD (Abbot Laboratories)
- Payments to unnamed doctors 2015 - 2018 €1,088,469
- Payments to named doctors 2015 - 2018 €2,329,047
- OVERALL €3,417,516 paid to doctors by Abbvie in four years.

Pfizer

PFIZER
- Payments to unnamed doctors 2015 - 2018 €880,209
- Payments to named doctors 2015 - 2018 €2,423,448
- OVERALL €3,303,657 paid to doctors by Pfizer in four years.

Roche

ROCHE
- Payments to unnamed doctors 2015 - 2018 €1,037,050
- Payments to named doctors 2015 - 2018 €1,522,896
- OVERALL €2,559,946 paid to doctors by Roche in four years.

MENARINI group

A MENARINI
- Payments to unnamed doctors 2015 - 2018 €528,005
- Payments to named doctors 2015 - 2018 €1,863,898
- OVERALL €2,391,903 paid to doctors by A Menarini in four years.

WHY THESE PAYMENTS MATTER

CONCERN: Dr Aaron Mitchell researched influence of drug firms

AN increasing amount of academic research has found that doctors who take payments from drug firms are more inclined to prescribe drugs from those firms.

For example, research has shown that physicians who had to choose between multiple drugs for certain cancers were more likely to prescribe drugs from companies from whom they had received funding to attend international events.

The researchers – from the University of North Carolina School of Medicine – found payments for lodging and meals were linked to higher odds of prescribing certain drugs, though that wasn't consistently the case for payments for research.

'We saw a pretty consistent increase in prescribing of a company's drug stemming from what we call "general payments", which don't go directly for research, but instead are paid to physicians for consulting, meals, travel and lodging for conferences or talks,' said Dr Aaron Mitchell, the study's lead author.

'Influenced prescribing practices through gifts'

'This raises the possibility that drug companies are able to influence prescribing practices through gifts to physicians.'

The study is the latest of several that have reached similar conclusions in recent years.

A 2016 study published in the JAMA Internal Medicine journal found that doctors who received a single meal promoting a certain brand-name drug, prescribed those drugs for depression, high cholesterol and heart disease at higher rates.

Another study in the same journal found a link between industry payments and higher rates of prescriptions for brand-name cholesterol drugs.

Of that amount, €5.2m was paid to doctors who refuse to let their names be made public.

The IPHA says it wants to achieve 100% transparency and that more doctors are now choosing to be named – a process that involves little more than ticking a box.

But transparency is coming slowly. In 2015 the percentage of doctors choosing to be named stood at 55%. Today it stands at 64%.

NEW LIFE: Health Minister Simon Harris with an unnamed new mother at the Rotunda Hospital in Dublin earlier this week

'We want consent rates of 100%,' IPHA communications and advocacy director Bernard Mallee told the MoS.

'The interactions between our industry and doctors must meet high standards of integrity,' he continued.

However, without consent from those declining to be named the IPHA remains unable to identify the hundreds receiving secret payments.

For consumers, this means many patients have no way of judging whether their GP or specialist has a potential conflict of interest when prescribing treatment and medication.

'Patients can't discern a conflict of interest'

Other countries – such as Spain – have addressed this, thanks to a ruling from the country's data protection commissioner that the common good is best served if all doctors who receive payments are named.

In Ireland, one firm – GlaxoSmithKline – has made it mandatory for any doctors receiving funding to be named.

But the vast majority of IPHA members do not insist on this condition of funding – though many say that are in favour of more transparency.

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WHY NEW LAW WAS DELAYED

THE Government has been accused of 'breathtaking ineptitude' for failing to implement new laws to make it mandatory for doctors to declare payments from drugs firms.

Proposed legislation to address the issue was first introduced in the Dáil nearly three years ago – in March 2017 – ago by Fianna Fáil's Billy Kelleher.

The Bill got as far as the Oireachtas Health Committee, which suggested it did not go far enough and might need to be extended to nurses, pharmacists, and other health professionals.

Nevertheless, the proposal to ban secret payments received the backing of Health Minister Simon Harris, and the Department set to work to prepare more comprehensive legislation.

Since then nothing appears to have happened.

'This is a basic and common-sense proposal to provide transparency when it comes to doctors prescribing medication and who they are receiving gifts from,' Mr Kelleher – now an MEP – told the MoS.

'It's a no-brainer but clearly Minister Harris just couldn't be bothered to do anything in nearly three years.

'Since 2016, they just never accepted that they did not have 100% control over Dáil business and that they had to work with opposition parties when it came to passing important legislation.'

Asked the reason for the delay, a spokesperson for Mr Harris told the MoS 'the Department continues to work on this matter'.

The spokesperson added that EU regulations in place since 2007 place restrictions on payments to doctors by those selling and advertising medicines.

However these regulations do not include mandatory declarations.

Instead they state that any gifts and hospitality paid to doctors must be 'inexpensive and relevant to the practice of medicine or pharmacy'.

The regulations also allow 'hospitality at sales promotion events or at other events for purely professional and scientific purposes' as long as any such hospitality is 'reasonable in level'. The rules do not define what level of expenditure is considered reasonable.

FIVE QUESTIONS EVERY PATIENT SHOULD ASK THEIR DOCTOR

- Have you received any payments or funding from drug companies?
- What type of work do you do with these companies?
- Have you prescribed me any drugs or recommended any medical devices manufactured by companies you've taken payments from?
- Are there non-drug alternatives that I may want to consider first?
- Are there less expensive generic alternatives to the drugs or treatments you have prescribed?