

Disciplinary Panel Hearing

Case of

**Mark Taylor FRICS and;
Mark Taylor Chartered Surveyors**

On

25-29 June 2018

At

RICS, 55 Colmore Row, Birmingham, B3 2AA

Chairman

Carolyn Tetlow (Lay Member)

Members

Chris Pittman (Surveyor Member)

Catherine Brown (Lay Member)

Legal Assessor

Margaret Obi

RICS Representative

Kelly Sherlock

Charges

The formal charges against Mr Mark Taylor FRICS are that:

1. You failed to carry out your professional work in a timely manner and / or with proper regard for the standards of service and customer care expected of you in that, in respect of your involvement with 87 Grosvenor Avenue, you failed:
 - a. To fulfil your duties in respect of assisting with negotiating the purchase of the freehold;

- b. To address maintenance concerns which had been brought to your attention at all or in a timely manner;
- c. To arrange building insurance;
- d. To comply with or appropriately reply to requests for the return of outstanding funds;
- e. Adequately respond to correspondence and / or complaints raised.

Contrary to Rule 5 of the Rules of Conduct for Members 2007

2. You failed to carry out your professional work in a timely manner and / or with proper regard for the standards of service and customer care expected of you in that whilst acting as managing agent for 25 Goldhurst Terrace Management Co. Ltd. you:
 - a. did not collect service charge arrears and/or respond appropriately to queries from your client regarding these arrears;
 - b. did not pay out monies held in a sinking fund to your client on request, or did not do so promptly;
 - c. did not provide any or any adequate information and documentation to enable your client to monitor and review the management of the property;
 - d. did not provide any or any adequate information and documentation allowing your client to appoint new managing agents, or did not do so promptly;
 - e. did not adequately respond to correspondence from your client sent after 31 August 2015.

Contrary to Rule 5 of the Rules of Conduct for Members 2007

3. In respect of the Ombudsman Services, you acted in a manner that was inconsistent with your professional obligations and / or with a lack of integrity in that you, as sole Principal of the Firm, failed:
 - a. To comply with a decision dated 10 August 2016;
 - b. To comply with a decision dated 23 November 2016 (as amended);
 - c. To respond to the Ombudsman following its decision dated 31 March 2017 and / or inform the Ombudsman's Service of the Firm's interim suspension which prevented compliance with the said decision;
 - d. And your conduct at 3 a-b above exposed RICS to financial loss.

Contrary to Rule 3 of the Rules of Conduct for Members 2007

4. You acted dishonestly in that you told the Ombudsman's Service that you thought an action plan had been sent to Mr D and / or payment authorised when you knew one or more of these statements were untrue.

Contrary to Rule 3 of the Rules of Conduct for Members 2007

In the alternative to 4:

5. You demonstrated a lack of integrity in that you told the Ombudsman's Service that you thought an action plan had been sent to Mr D and / or payment authorised and in doing so you were reckless as to the truth of one or more of those statements.

Contrary to Rule 3 of the Rules of Conduct for Members 2007

6. You acted in a manner that was inconsistent with your professional obligations and / or with a lack of integrity in that you:
 - a. Transferred the business of clients who had contracted with the Firm to a new firm without:
 - i. Informing them at the time,
 - ii. Seeking their consent,
 - iii. Arranging / facilitating / encouraging clients to transfer money held by the Firm at the same time as their business;
 - b. Failed to ensure the Firm had adequate and appropriate professional indemnity insurance.
 - c. Failed to ensure the Firm had appropriate monthly reconciliation procedures in place to preserve client money.

Contrary to Rule 3 of the Rules of Conduct for Members 2007

7. You failed to carry out your professional work in a timely manner and / or with proper regard for the standards of service and customer care expected of you in respect of a report commissioned by AH Page solicitors in that you failed:

- a. To complete the report in a timely manner or at all;
- b. Having failed to complete the report, you failed to refund your fee;
- c. Respond to correspondence regarding this report in an appropriate and / or timely manner.

Contrary to Rule 5 of the Rules of Conduct for Members 2007

- 8. You failed to carry out your professional work in a timely manner and / or with proper regard for the standards of service and customer care expected of you in respect of your management of Brooklyn Court in that you failed:

- a. To respond in an appropriate and / or timely way to communications and / or complaint(s) from Ms T, or those acting on her behalf;
- b. To provide a copy of the accounts, as requested, either at all or in a timely manner;

Contrary to Rule 5 of the Rules of Conduct for Members 2007

- 9. You have failed to co-operate fully with RICS Regulation officers investigating one or more of the following complaints:

- a. A complaint received regarding the management of 25 Goldhurst Terrace;
- b. A complaint received from the Ombudsman's Service regarding a failure to comply with a decision dated 10 August 2016;
- c. A complaint received from the Ombudsman's Service regarding a failure to comply with a decision dated 23 November 2016 (as amended);
- d. A complaint from the Ombudsman's Service regarding an alleged failure to comply with a decision dated 31 March 2017;
- e. A complaint received from AH Page Solicitors regarding a valuation report;
- f. A complaint received regarding the management of 87 Grosvenor Avenue;
- g. A complaint received following an inspection of the Firm by Ms Leeder.

Contrary to Rule 9 of the Rules of Conduct for Members 2007

And in light of any or all of the allegations set out above you are liable to disciplinary action under RICS Bye-Law 5.2.2(a) or 5.2.2(c)

The formal charges against Mark Taylor Chartered Surveyors (the Firm) are that:

1. The Firm failed to carry out professional work appropriately in that, in respect of 87 Grosvenor Avenue, it failed:
 - a. To fulfil its duties in respect of assisting with negotiating the purchase of the freehold;
 - b. To address maintenance concerns which had been brought to its attention at all or in a timely manner;
 - c. To arrange building insurance;
 - d. To comply with or appropriately reply to requests for the return of outstanding funds;
 - e. Adequately to respond to correspondence and / or complaints raised.

Contrary to Rule 5 of the Rules of Conduct for Firms 2007

2. The Firm failed to carry out its professional work in a timely manner and / or with proper regard for standards of service and customer care expected of it in that whilst acting as managing agents for 25 Goldhurst Terrace Management Co. Ltd.it:
 - a. did not collect service charge arrears and/or respond appropriately to queries from its client regarding these arrears;
 - b. did not pay out monies held in a sinking fund to the client on request, or did not do so promptly;
 - c. did not provide any or any adequate information and documentation to enable the client to monitor and review the management of the property;
 - d. did not provide any or any adequate information and documentation allowing the client to appoint new managing agents, or did not do so promptly;
 - e. did not adequately respond to correspondence from the client sent after 31 August 2015.

Contrary to Rule 5 of the Rules of Conduct for Firms 2007

3. The Firm acted in a manner that was inconsistent with its professional obligations and / or with a lack of integrity in respect of the Ombudsman Services in that it failed:
 - a. To comply with a decision dated 10 August 2016;

- b. To comply with a decision dated 23 November 2016 (as amended)
- c. To respond to the Ombudsman following its decision dated 31 March 2017 and / or inform the Ombudsman's Service of the Firm's interim measures suspension which prevented compliance with the said decision.

Contrary to Rule 5 of the Rules of Conduct for Firms 2007

4. The Firm acted in a manner that was inconsistent with its professional obligations and / or with a lack of integrity in that it:

- a. Transferred the business of its clients to a new firm without:
 - i. Informing them at the time,
 - ii. Seeking their consent,
 - iii. Arranging / facilitating / encouraging clients to transfer money held by the Firm at the same time as their business,
- b. The Firm failed to ensure at all times it had adequate and appropriate professional indemnity insurance.

Contrary to Rule 3 of the Rules of Conduct for Firms 2007

5. The Firm failed to ensure at all times it had adequate and appropriate professional indemnity insurance.

Contrary to Rule 9 of the Rules of Conduct for Firms 2007

6. The Firm failed to ensure it had appropriate monthly reconciliation procedures in place to preserve client money.

Contrary to Rule 8 of the Rules of Conduct for Firms 2007

7. The Firm failed to carry out its professional work in a timely manner and / or with proper regard for the standards of service and customer care expected of it in that in respect of a report commissioned by AH Page solicitors it failed:

- a. To complete the report in a timely manner or at all;

- b. Having failed to complete the report, it failed to refund the fee;
- c. Respond to correspondence regarding this report in an appropriate and / or timely manner.

Contrary to Rule 5 of the Rules of Conduct for Firms 2007

- 8. The Firm failed to operate a Complaints Handling Procedure in that it did not provide documentation when requested and / or respond either at all or in a timely manner to a formal complaint regarding:
 - a. 25 Goldhurst Terrace;
 - b. 87 Grosvenor Avenue;
 - c. Services commissioned by AH Page Solicitors;
 - d. Brooklyn Court.

Contrary to Rule 7 of the Rules of Conduct for Firms 2007

- 9. The Firm failed to carry out its professional work in a timely manner and / or with proper regard for the standards of service and customer care expected of it in that in respect of the management of Brooklyn Court it failed:
 - a. To respond in an appropriate and / or timely way to communications and / or complaint(s) from Ms T, or those acting on her behalf;
 - b. To provide a copy of the accounts, as requested, either at all or in a timely manner.

Contrary to Rule 5 of the Rules of Conduct for Members 2007

- 10. The Firm failed to co-operate fully with RICS Regulation officers investigating one or more of the following complaints:
 - a. A complaint received regarding the management of 25 Goldhurst Terrace Management Co. Ltd;
 - b. A complaint received from the Ombudsman's Service regarding a failure to comply with a decision dated 10 August 2016;

- c. A complaint received from the Ombudsman's Service regarding a failure to comply with a decision dated 23 November 2016 (as amended);
- d. A complaint from the Ombudsman's Service regarding a failure to comply with a decision dated 31 March 2017;
- e. A complaint received from AH Page Solicitors regarding a valuation report;
- f. A complaint received regarding the management of 87 Grosvenor Avenue;
- g. A complaint received following an inspection of the Firm by Ms Leeder.

Contrary to Rule 15 of the Rules of Conduct for Firms 2007

And in light of the any or all of the allegations above you are liable to disciplinary action under RICS Bye-law 5.3.2(a) or 5.3.2(c)

Background

1. Mr Taylor is the contact officer and Sole Principal of the Firm. Mr Taylor first registered with RICS in 2000. The Firm last registered with RICS on 17 March 2015. Seven separate referrals to a Disciplinary Panel were made by the Head of Regulation following the receipt of various complaints against Mr Taylor and the Firm. As Sole Principal of the Firm Mr Taylor was responsible for ensuring the Firm's compliance with its professional obligations.
2. The background circumstances based on the RICS Case Summary are as follows:

87 Grosvenor Avenue

3. RICS received a complaint on 16 January 2016 on behalf of the leaseholders of apartments A-D, 87 Grosvenor Avenue ('Grosvenor Avenue'). This complaint alleged that Mr Taylor was appointed by Grosvenor Avenue on 4 February 2014, to assist them during their collective leasehold enfranchisement process but Mr Taylor had failed to fulfil the contractual obligations and had stopped responding to correspondence. The enfranchisement process was eventually concluded on 10 November 2015 without Mr Taylor's input.

4. Mr Taylor had also been appointed to manage the property from 9 July 2014. The complaint alleged that from 3 October 2014 Mr Taylor stopped engaging with the freeholder or leaseholders. Ultimately, the renewal of the building insurance and the remedial work were arranged by the freeholder and leaseholders themselves.
5. Mr Taylor failed to respond to a request for the return of monies owed, updated accounts, and a handover file on termination of the management contract. A formal complaint was made on 17 December 2015 requesting a copy of the complaints handling procedure and a response. This was followed up by a second letter dated 30 December 2015. Mr Taylor and/or the Firm failed to respond to these.
6. Following receipt of the complaint, RICS wrote to Mr Taylor on several occasions. Subsequently, Mr Taylor submitted a written response blaming the prior delay on IT issues. He maintained his appointment was to assist Grosvenor Avenue with a valuation for the enfranchisement and not with negotiation. He stated he had corresponded with leaseholders since 3 October 2014, contrary to their assertion. He accepted he had not provided a complaints handling policy and apologised for this. He claimed he had never received a formal request for the release of information regarding the property or details of an account to which to transfer the funds. The complainants subsequently challenged these assertions and provided further documentation in support.
7. Following this additional information Mr Taylor was asked to comment further, in correspondence sent to him on 20 December and 26 January 2017. He did not do so.

25 Goldhurst Terrace

8. On 25 February 2016 RICS received a complaint sent on behalf of 25 Goldhurst Terrace Management Co Ltd ('Goldhurst'). Goldhurst had contracted with the Firm for it to act as the managing agent for their property. This complaint alleged that the Firm had:
 - i. Failed to collect service charge arrears or explain discrepancies regarding these charges;
 - ii. Failed to pay out monies to the Director of Goldhurst held in a sinking fund;
 - iii. Failed to provide information and documentation allowing them to monitor and review the Firm's management of the property;

- iv. Failed to provide Goldhurst with the requisite information to allow it to appoint a new agent;
 - v. Failed to respond to correspondence since 1 September 2015, including a failure to respond to a formal complaint.
9. Having received and considered this complaint, RICS wrote to Mr Taylor on 17 March 2016 asking for his comments. Mr Taylor did not respond. RICS rang him on 5 April 2016 and was told that due to IT issues he had not received this email. Another copy was sent and Mr Taylor responded: *'Email received today. We will resolve asap'*. However, no reply was forthcoming despite further telephone calls and an email.

Ombudsman Decision – Harrow Court (Mr D)

10. On 9 November 2016 RICS received a complaint regarding the Firm's failure to abide by the terms of an Ombudsman's decision. On 10 January 2017 RICS received a copy of the same complaint directly from the Ombudsman's Service. Mr D had written to the Ombudsman regarding his concerns in respect of the Firm's poor management of his flat in Harrow Court. The Ombudsman made a recommendation on 13 July 2016 that the Firm pay £80 as a goodwill gesture and devise an action plan regarding deficiencies with the entryphone. Mr Taylor failed to respond despite a reminder and as a result the decision was made final on 10 August 2016. Mr Taylor was given 28 days to comply. He failed to do so. Reminders were sent on 7 September, 14 September, and 28 September. He did not respond to any of these.
11. On 17 October 2016 Mr Taylor spoke to a representative of the Ombudsman Service by telephone, and stated he believed the action plan had been sent to Mr D, the complainant, and that he had authorised payment of the goodwill gesture. No payment or action plan were received by the complainant. There was a further telephone conversation between Mr Taylor and the Ombudsman Service on 16 December 2016. During that telephone call Mr Taylor confirmed that the £80 had not yet been paid and stated that he could not address the entryphone issue as it was not a service charge matter. He was reminded by the Ombudsman that the requirement was to provide an action plan, not to carry out the repair. He said he would respond within 7 days. He did not do so.

12. RICS wrote to Mr Taylor and the Firm asking for his comments on 26 January, 16 February and again on 31 March 2017, alleging a failure to implement the decision of the Ombudsman. He did not respond. Following his failure to pay the goodwill gesture of £80, RICS paid this sum to the complainant on 26 January 2017. RICS allege that the failure to implement the Ombudsman's decision demonstrated a lack of integrity.
13. RICS allege that when Mr Taylor spoke to the Ombudsman on 17 October 2016, his responses regarding the action plan and payment were untrue. RICS allege that he must have known what he was telling the Ombudsman was untrue and therefore his response was dishonest. In the alternative, RICS allege that Mr Taylor was reckless as to the truth of the statements made to the Ombudsman, which demonstrated a lack of integrity.

Client Money Regulatory Review

14. Having been made aware that Mr Taylor had been made bankrupt, RICS arranged for an urgent Client Money Regulatory Review visit to be conducted by Mrs Cherry Leeder on 30 November 2016. Following this visit the case was referred for investigation.
15. From Mrs Leeder's report, it appears that Mr Taylor was declared bankrupt on 27 July 2016 as a result of an application to the court by HM Revenue and Customs. Trustees in bankruptcy were appointed on 1 August 2016 and those Trustees subsequently sold the business to a new company, Taylor Surveyors Ltd, ("the new Company") which had been incorporated on 15 August 2016 by Elliot Taylor as sole shareholder/director. Elliot Taylor is Mark Taylor's son. Another director, Mr Mark Smith, was appointed on 19 August 2016. Mark Taylor became an employee of the new Company.
16. The business assets belonging to the Firm were transferred to the new Company, Taylor Surveyors Ltd, but the client accounts were not transferred. This meant that by 30 November 2016 all the client funds were still under the control of the Firm, with Mark Taylor as sole signatory on the accounts. The Firm had Professional Indemnity Insurance in place from 1 October 2015 to 30 September 2016, but Mr Taylor explained he had been unable to obtain any cover when that policy expired. A list of client accounts produced on 5 December 2016 indicated that a total of £970,959.51 remained in these accounts, without the benefit of insurance

protection. Mrs Leeder also noted that there were inadequate procedures in place to ensure that accounts held by the Firm and the new Company were properly reconciled.

17. Mrs Leeder found no evidence that clients had been notified of the sale of the business to the new Company. During the visit Mr Taylor confirmed he had not written to them. These clients had not been asked to consent to the transfer of their business to the new Company. They had not been issued with new management contracts. They were not aware that their money was being held by one firm whilst another administered their business, nor that the firm holding the money was uninsured.
18. Following Mrs Leeder's report Mr Taylor provided RICS with evidence that substantial client funds had since been transferred to the new Company. This documentation also showed that certain funds remained in the possession of the Firm. Mr Taylor asserted in an email to RICS, dated 9 December 2016, that this discrepancy was the result of cheques not yet having been cleared. Taylor Surveyors Ltd wrote to the clients to inform them about the transfer of their business. The terms of those letters stated that the Firm had been '*incorporated as Taylor Surveyors Ltd*'.
19. As a result of concerns arising from this visit, on 12 January 2017 an interim suspension order was imposed on the Firm, and interim conditions on Mr Taylor.
20. RICS, on several occasions, wrote to Mr Taylor to ask him for his comments on the conclusions in Mrs Leeder's report and to remind him of his duty to cooperate. These received no reply.
21. RICS allege that Mr Taylor's actions towards his clients following his bankruptcy demonstrate a further lack of integrity and/or were inconsistent with his professional obligations.

AH Page Solicitors

22. A further complaint was made to RICS by AH Page Solicitors on 28 March 2017. This alleged that the Firm had been Instructed to undertake a rental valuation report on behalf of a client of AH Page, Mr C. The Firm charged an upfront fee of £750 plus VAT which was paid, but the report was never produced. AH Page attempted to contact the Firm but could obtain no

response. It demanded a refund but without success. It attempted to raise a formal complaint but again received no response.

23. RICS wrote to Mr Taylor regarding this matter in June and August 2017. RICS rang Mr Taylor on 30 August 2017. He said he was on a site inspection and would phone back the next day. He failed to do so. RICS called again on 31 August but did not manage to speak to Mr Taylor. A further letter warning him of his obligation to cooperate was sent out on 4 September 2017 and no response was received.

Ombudsman Decisions – Brooklyn Court (Ms N and Ms T)

24. The Ombudsman referred another case to RICS on 25 April 2017. Ms N lived in a property at Brooklyn Court which was managed by the Firm. She made a complaint to the Ombudsman regarding the service she had received. She understood that her account with the Firm was in credit in the sum of £2,588.09 and wrote to Mr Taylor asking for a refund. Despite numerous attempts to persuade him to do so, Mr Taylor did not refund the money owed and subsequently ceased responding to her emails.

25. The matter was referred to the Ombudsman. In a letter dated 9 December 2016 the Ombudsman gave the Firm 28 days to:

- provide an update in respect of its investigation into the credit balance of Ms N's account (£2,588.09) and informing her of any reason why it could not be returned;
- provide a goodwill gesture of £50 in respect of the customer service shortfalls.

26. Mr Taylor failed to take any action to ensure that the Firm complied with the decision of the Ombudsman. Follow up letters were sent but there was no response.

27. RICS wrote to Mr Taylor on 20 June 2017 requesting an explanation for the apparent failure to comply with the Ombudsman's decision. Mr Taylor did not respond. There was also no response to a further email and telephone message left with a member of staff at the Firm.

28. A further letter dated 22 November 2017 asked Mr Taylor for his comments in relation to an allegation he had failed to return client money and advised him that he was under a duty to cooperate. Mr Taylor did not respond.
29. RICS received an additional referral from the Ombudsman Service dated 4 July 2017, following a complaint by another tenant of Brooklyn Court, Ms T. This alleged that Mr Taylor had failed to comply with a decision of the Ombudsman dated 31 March 2017.
30. On 17 July 2017 RICS wrote to Mr Taylor in respect of this new matter. No response was received. A further email on 11 October received no reply.
31. RICS allege that that Mr Taylor disregarded his duties towards the Ombudsman's Service and in so doing did not act with integrity.

Preliminary matters

Service of Notice of Hearing

32. Mr Taylor did not attend the hearing, neither did any representative on behalf of the Firm.
33. A Notice of Hearing, dated 26 April 2018, was sent to Mr Taylor by email on 26 April 2018 and by Special Delivery post on 27 April 2018. The Notice was addressed to Mr Taylor and the Firm. A copy of the Notice, an email read receipt and a DHL postal delivery receipt were produced as proof that the Notice was sent, together with a signed witness statement from a member of the Regulatory Tribunal Executive.
34. The Panel concluded that the Notice:
- (i) confirmed the charges;
 - (ii) provided at least 56 days' notice;
 - (iii) confirmed the date, time and venue of the hearing;
 - (iv) enclosed the Disciplinary, Registration and Appeal Panel Rules 2009 (as amended).
35. Accordingly, the Panel was satisfied that the Notice was properly served on both Mr Taylor and the Firm in accordance with Rule 23.

Response

36. The only response to the Notice of Hearing was an email from Mr Taylor, dated 22 June 2018 and timed at 17.08. In that email Mr Taylor confirmed his non-attendance, requested an adjournment and stated that he *'did not dispute any of the charges, as directly or indirectly, they are all as a result of the Bankruptcy.'*

Adjournment and Proceeding in Absence Applications

37. In his email dated 22 June 2018, Mr Taylor applied for the hearing date to be adjourned. He confirmed that he would not be attending the hearing and stated that the *'traumatic and overwhelming impact'* of his bankruptcy had prevented him from preparing *'any reasonable response sooner.'* He apologized for his *'late submission.'* Mr Taylor stated that RICS had refused to accept his resignation. He set out a number of mitigating factors and appeared to indicate that an adjournment would provide him with an opportunity to enter into some form of *'agreed settlement or similar'*. He went on to state, *'I believe that RICS have incurred considerable time and cost, this could have been avoided had RICS taken a common sense approach.'*
38. Ms Sherlock, on behalf of RICS, opposed the application to adjourn and submitted that the hearing should proceed in Mr Taylor's absence. She informed the Panel that it was unclear whether Mr Taylor was suggesting that the concerns raised could be dealt with by way of a Consent Order or whether an agreed outcome could be presented to the Panel at some future date. She submitted that the concerns were too serious to be dealt with by way of a Consent Order and referred the Panel to paragraph 13.1 of the Sanctions Policy which states that RICS may enter into a Consent Order with a Member or a Firm if: (i) the rule breach is not so serious that a public disciplinary hearing is necessary to protect the public or the public interest; and (ii) the Member or Firm admits the breach and is willing to cooperate with RICS to rectify the matter. Ms Sherlock submitted that neither condition had been met. She informed the Panel that a *'without prejudice'* telephone conversation with Mr Taylor took place on 7 June 2018 at her instigation, with a view to narrowing the issues. However, she stated that Mr Taylor had not read the papers by that time and as a consequence no progress could be made. No further contact was made until Mr Taylor's email of 22 June 2018.

39. Ms Sherlock further submitted that, although it may have been possible for the parties to agree a statement of facts at an earlier stage of the investigation progress, it was now too late. She stated that seven separate referrals to a Disciplinary Panel had been made by the Head of Regulation and on each occasion Mr Taylor had been informed. She submitted that therefore both Mr Taylor and the Firm had been given sufficient opportunity to enter into discussions with RICS. She invited the Panel to conclude that at this late stage the public interest in disposing of this case expeditiously far outweighed Mr Taylor's interests in attending the hearing.
40. The Committee accepted the Legal Assessor's advice and took into account the guidance in the cases of *R v Jones* [2002] UKHL 5 with regards to the relevant factors to be considered and *GMC v Adeogba* [2016] EWCA Civ 162. The judgement in *Adeogba* confirmed that '*The fair, economical, expeditious and efficient disposal of allegations made against ... practitioners is of very real importance*' and that a hearing should not be re-listed in circumstances where a practitioner had deliberately failed to engage in the hearing given the consequential cost and delay to other cases. The judgement in *Adeogba* also stated that:
- "there is a burden on...all professionals subject to a regulatory regime, to engage with the regulator, both in relation to the investigation and ultimate resolution of allegations made against them. That is part of the responsibility to which they sign up when being admitted to the profession."*
41. The Panel determined that it was reasonable and in the public interest to refuse the application for an adjournment, and to proceed with the hearing in the absence of Mr Taylor for the following reasons:
- (i) Mr Taylor had confirmed in his email, dated 22 June 2018, that he would not be attending the hearing. Although he stated '*I am unable to finance the appointment of anyone to represent me in relation to these disciplinary matters*', the Panel concluded that the inability to afford to pay for legal representation did not provide an adequate explanation for his non-attendance. Mr Taylor offered no other explanation for his non-attendance. In the absence of an adequate explanation, the Panel concluded that it was fair and reasonable to conclude that Mr Taylor's non-attendance was voluntary and therefore a deliberate waiver of his right to attend and to participate in these proceedings.

- (ii) Mr Taylor was notified on seven separate occasions that the individual complaints had been referred to a Disciplinary Panel. The Panel was satisfied that this provided him with adequate notice of the case against him and sufficient time to enter into discussions with RICS with regard to the possibility of an agreed outcome. In these circumstances the application for an adjournment '*in order that RICS can consider in full [his] position*' was far too late. The Panel noted that Ms Sherlock telephoned Mr Taylor on 7 June 2018 and there was no further communication from him until receipt of his email on 22 June 2018. The Panel also noted that Mr Taylor was made bankrupt in July 2016. The Panel accepted that this was likely to have been a distressing and stressful event. However, the Panel was not satisfied that it provided a reasonable excuse for not "*preparing any reasonable response sooner*" or for waiting until close of business on the Friday before the hearing was due to commence to request an adjournment.
- (iii) The Panel accepted that there may be some disadvantage to Mr Taylor in not being able to give evidence or make oral submissions. However, the Panel concluded that the disadvantage to Mr Taylor was far outweighed by the public interest in ensuring that the hearing commences and proceeds expeditiously. In reaching this conclusion the Panel noted that, if an adjournment was granted, it was highly likely that the delay would be measured in many months rather than weeks and the case might not be re-listed until the new year.

Amendment of Charges

42. Ms Sherlock made an application, during her opening of the case, for charges 3(b) in respect of Mr Taylor and the Firm to be amended by substituting the words, '*9 December 2016*' with the words, '*23 November 2016*'. She submitted that the amendment would more accurately reflect RICS' case in that the letter from the Ombudsman, dated 9 December 2016, was simply a reiteration of the decision letter dated 23 November 2016.
43. The Panel was satisfied that the charges should be amended as requested as the proposed amendments:
- provided helpful clarification;
 - avoided ambiguity;
 - did not alter the substance or meaning of the charges as originally drafted and did not widen the scope of RICS' case.

44. In these circumstances, the Panel concluded that the amendments would cause no injustice to Mr Taylor as they were minor in nature and more accurately reflected RICS' case.
45. During the Panel's private deliberations on the facts, it determined of its own volition, that charge 9(c) in respect of Mr Taylor and charge 10(c) in respect of the Firm should also be amended by substituting '9 December 2016' and replacing it with '23 November 2016'. The Panel took the view that the amendment did not make any material difference to the substance of the charges. The Panel also concluded that the amendment would make the charges consistent with each other and would therefore avoid any ambiguity. The Panel was satisfied that the amendment was minor in nature and would not cause any injustice to Mr Taylor or RICS.

Findings of Fact

Panel's Approach

46. The Panel was aware that the burden of proving the facts was on RICS. Mr Taylor did not have to prove anything, and the charges could only be found proved if the Panel was satisfied, on the balance of probabilities, that the facts had been established on the evidence.
47. In reaching its decision the Panel took into account the documentary evidence within the hearing bundle which included relevant correspondence between the complainants and Mr Taylor and/or the Firm, correspondence from RICS, an email from Mr Taylor dated 22 June 2018, a witness statement from Nicola Kerr of the Ombudsman's Service and the report from Mrs Cherry Leeder following her Client Money Regulatory Review visit. The Panel also took into account the oral evidence of Mrs Leeder, and Taylor Surveyors Limited's application form for RICS Regulation dated 19 August 2016.
48. The Panel noted the contents of Mr Taylor's email, dated 22 June 2018 which included a statement that he '*did not dispute any of the charges*'. The Panel took this into account when considering the facts but did not accept this statement as a formal admission because a number of the charges were expressed in the alternative and Mr Taylor was not present to confirm the nature and extent of any such admission. In the circumstances each charge was considered separately and fully by the Panel.

49. The Panel accepted the advice of the Legal Assessor. In relation to the allegations of dishonesty and lack of integrity, the Panel noted that following the Supreme Court decision in *Ivey v Genting Casinos* [2017] UKSC 67 the test for dishonesty is an objective test only. The Panel first had to determine the Registrant's actual knowledge or belief and then determine whether his act or omission was, on the balance of probabilities, dishonest by the ordinary standards of reasonable and honest people.

50. Where RICS allege a lack of a lack of integrity the Panel took into account RICS code of Ethics and Professional Standards:

- Act with integrity;
- Always provide a high standard of service;
- Act in a way that promotes trust in the profession;
- Treat others with respect;
- Take responsibility.

The Panel also took into account the guidance given in *Wingate & Evans v SRA; SRA v Malins*, [2018] EWCA Civ 36:

'In professional codes of conduct, the term "integrity" is a useful shorthand to express the higher standards which society expects from professional persons and which the professions expect from their own members...The underlying rationale is that the professions have a privileged and trusted role in society. In return they are required to live up to their own professional standards.'

Decision

Allegations against Mr Taylor

Charge 1(a) – Found Proved

'You failed to carry out your professional work in a timely manner and / or with proper regard for the standards of service and customer care expected of you in that, in respect of your involvement with 87 Grosvenor Avenue, you failed:

To fulfil your duties in respect of assisting with negotiating the purchase of the freehold

51. The Panel was provided with a copy of the complaint made on behalf of the leaseholders of A-D 87 Grosvenor Avenue dated 16 January 2016. The leaseholders stated that Mr Taylor had been instructed to assist them during their collective leasehold enfranchisement, which was corroborated by Mr Taylor's signed Terms of Engagement dated 29 January 2014. The second paragraph of the Terms of Engagement stated, *'Please note that this fee relates to the preparation of the Valuation only and further fees may be payable if you instruct us to enter into negotiations or prepare and submit written representations to, or appear on your behalf at, a First-tier Tribunal (Property Chamber).'*' This paragraph was queried, on behalf of the leaseholders, in an email dated 30 January 2014. The email stated, *'Negotiations with the freeholder's surveyors seem likely, and we were all under the impression that this would be included in your fee. Can you clarify under what circumstances extra fees might be payable, and give us an indication of what these costs might be?'* Mr Taylor responded in an email, dated 2 February 2014, *'Our fee will include any initial negotiations with the Freeholder's Valuers. Additional fees would only be incurred if the matter were to be referred to the Tribunal...'* In correspondence dated 17 September 2014 with Nelsons solicitors Mr Taylor stated *'...please let me know whether the Freeholder's contention is correct so that I can then negotiate...'*
52. The Panel noted that in a letter to RICS, dated 8 July 2016, Mr Taylor sought to rely on the Terms of Engagement to dispute that negotiation was included in the instruction. Although the Terms of Engagement excluded negotiation the Panel was satisfied that Mr Taylor amended the terms when he agreed in his email to the leaseholders dated 2 February 2014 that negotiation would be included in the fee. As a consequence Mr Taylor had a duty to assist the leaseholders in the negotiation with the freeholder. The leaseholders expressed concern in a letter, dated 9 December 2014, that Mr Taylor was conflicted as he was also instructed on 9 July 2014 to manage the property on behalf of the freeholder. However, in a letter to RICS, dated 8 July 2016, Mr Taylor stated that he had carried out conflict checks prior to both instructions and did not consider himself conflicted.
53. The leaseholders stated in their letter of complaint of 16 January 2016 that *"The negotiation for the final freehold value was conducted without his participation or input."* Whilst the Panel saw some evidence that Mr Taylor did initially undertake a limited amount of negotiation, the Panel was satisfied on the evidence that he did not adequately discharge his duty to negotiate on behalf of the leaseholders so that they had to complete the process without his assistance and that this amounted to the failure alleged.

54. Accordingly charge 1(a) was found proved.

Charge 1(b) – Found Proved

‘To address maintenance concerns which had been brought to your attention at all or in a timely manner’

55. The Panel was provided with a copy of a letter, dated 9 July 2014, which confirmed that Mr Taylor had been appointed to act as managing agent for Grosvenor Avenue and a letter of complaint, on behalf of the leaseholders, dated 17 December 2015. The complaint related to Mr Taylor’s failure to address maintenance concerns from October 2014 onwards despite numerous requests. It was clear from the correspondence before the Panel that concerns relating to the management of the property were raised from 3 October 2014. A leaseholder wrote to Mr Taylor on 17 November 2014 enquiring about cracks to the rear wall and again on 19 November 2014 with regards to the same concern. A further email was sent on 1 December 2014 listing a number of outstanding maintenance issues. In an email, dated 9 December 2014, the leaseholders stated, *‘We have had no update as to what you have done for us and you are not available to discuss our urgent ongoing concerns. We have repeatedly written to you.’* Another email was sent on 15 December 2014, in which a leaseholder expressed *‘disappointment’* that they were yet to receive a response to the issues they had raised. An email, dated 26 January 2015, expressed frustration at the lack of progress and a further email was sent on 26 February 2015 requesting an update.

56. Mr Taylor disputed that he had not responded to the leaseholders after October 2014. In his letter to RICS, dated 8 July 2016, Mr Taylor enclosed correspondence that he had sent after October 2014. The Panel noted that this correspondence was limited to issues relating to keys and access but did not address the substantive concerns that had been raised with regard to, for example, cracks and subsidence. There was no evidence before the Panel that the issues were ever resolved by Mr Taylor, despite assurances in an email, dated 23 September 2014, that, *‘These are under review so that we can get all matters moving asap.’*

57. The Panel noted that the Firm's appointment as managing agent was terminated in May 2015 and in a letter dated 1 December 2015 the leaseholders confirmed that, having now purchased the freehold, they intended to manage the property themselves.
58. Mr Taylor acknowledged in his letter, dated 8 July 2016, that the leaseholders had decided to manage the property themselves and confirmed that the Firm still held the service charge funds in a designated client account. As the amount held was slightly in excess of the service charge paid by the leaseholders to Mr Taylor in 2014 at his request, the Panel took the view that this indicated that no monies had been spent by Mr Taylor on maintaining the property. Further, there was no evidence in the bundle that maintenance work had been arranged by Mr Taylor.
59. The Panel was satisfied based on the documentary evidence that Mr Taylor had a duty to address the maintenance concerns but did not do so. The Panel concluded that this amounted to a failure as no good reason for the omission was provided.
60. Accordingly charge 1(b) was found proved.

Charge 1(c) – Found Proved

'To arrange building insurance'

61. Arranging insurance was one of the services the Firm undertook to provide as the managing agent for Grosvenor Avenue. Renewal of the insurance policy was due on 24 December 2014. The Panel was satisfied on the evidence before it that Mr Taylor did not arrange renewal of the insurance policy and the freeholder was obliged to do so himself following a request from the leaseholders. An email from the leaseholders, dated 10 February 2015, stated that they had been requesting confirmation of the renewal for some time and, due to the absence of any confirmation, the freeholder had had to contact the brokers directly and arrange insurance.
62. The Panel was satisfied that Mr Taylor as the Sole Principal of the Firm had a duty to arrange building insurance and did not do so. The Panel concluded that this amounted to a failure as no good reason for the omission was provided.
63. Accordingly charge 1(c) was found proved.

Charge 1(d) – Found Proved

‘To comply with or appropriately reply to requests for the return of outstanding funds’

64. The Panel noted that the complaint letter to RICS dated 16 January 2016, included reference to a sum of £1,250 which was not returned to the leaseholders despite being requested. The Panel was provided with a copy of an email, dated 1 December 2015, requesting a full refund of the service charges on the basis that no services were provided. The email timed at 09.46 requested £1,000 (based on £250 received from each flat) and a further email on the same date timed at 11.30 amended the figure to £1,250 *‘as the Vet also paid a £250 share.’*
65. The Panel accepted the documentary evidence that no response was received from Mr Taylor despite two follow up telephone messages. Mr Taylor confirmed in his letter dated 8 July 2016 that as of that date the Firm still held £1,251.96 in service charges on behalf of the leaseholders. The Panel was satisfied that Mr Taylor had a duty to comply with the requests for a refund by taking appropriate steps for the Firm to return the monies. There was no evidence that any steps were taken by Mr Taylor. The Panel concluded that this amounted to a failure as no good reason for the omission was provided.
66. Accordingly charge 1(d) was found proved.

Charge 1(e) – Found Proved

‘Adequately respond to correspondence and / or complaints raised’

67. The Panel took into account its findings in relation to charges 1(a) -1(d). The Panel was satisfied that the correspondence within the hearing bundle demonstrated that Mr Taylor was sent numerous emails complaining about his lack of response to previous correspondence and complaints. A written complaint was also sent to the Firm, dated 9 December 2014, regarding the lack of contact from Mr Taylor since his firm took over the management of Grosvenor Avenue on 9 July 2014. The letter also requested that Mr Taylor find out who owned the neighbouring property because it was causing damage to 87 Grosvenor Avenue. This issue was still being chased without success on 19 February 2015.

68. Accordingly, charge 1(e) was found proved.

69. Having found the individual charges proved the Panel went on to consider the stem of the allegation and was satisfied that its findings in relation to charges 1 (a) to (e) collectively demonstrated that Mr Taylor failed to carry out his professional work in a timely manner and also failed to have proper regard to the standards of service and customer care expected of an RICS member.

Charge 2(a) – Found Proved

‘You failed to carry out your professional work in a timely manner and / or with proper regard for the standards of service and customer care expected of you in that whilst acting as managing agent for 25 Goldhurst Terrace Management Co. Ltd. you:

(a) did not collect service charge arrears and/or respond appropriately to queries from your client regarding these arrears’

70. Solicitors, acting on behalf of the Goldhurst Terrace Management Co Ltd, wrote a letter of complaint to RICS on 25 February 2016. In that letter the solicitors expressed a concern that one of the leaseholders had fallen into arrears with his service charge contribution and Mr Taylor had not chased the leaseholder for payment or notified the solicitors’ client. The solicitors’ client believed the arrears to be £3,500. The Panel noted that the solicitors wrote to Mr Taylor on 1 September 2015 requesting details of the arrears and measures that had been taken. The Panel accepted that there was no response as a further letter was sent by the solicitors on 3 September 2015. The solicitors complained that by November 2015 they had still not received a response from Mr Taylor. A telephone call was made to Mr Taylor which resulted in an email from him, dated 17 November 2015, in which he stated that, having adjusted the credit balance on the leaseholders’ service charge account for the year end 2014, the amount owed was in fact £350. This amount was disputed by the solicitors on behalf of their clients. The Panel noted that a reminder invoice had been sent to the leaseholder on 5 March 2015 by the Firm requesting outstanding service charge arrears of £3,557.78. Although there was reference to a tenant receipt of £1,150 in a statement to the leaseholder, dated 12 November 2015, the alternative figures for the arrears do not appear to have been reconciled.

71. The Panel was satisfied that as the Sole Principal of the Firm Mr Taylor had a duty to resolve the concern with regard to the arrears and explain the discrepancy. There was no evidence before the Panel that Mr Taylor provided a response to the queries raised and no evidence that he took steps to ensure the arrears were collected.

72. Accordingly, the Panel found charge 2(a) proved.

Charge 2(b) – Found Proved

‘did not pay out monies held in a sinking fund to your client on request, or did not do so promptly’

73. The letter of complaint from the solicitors, acting on behalf of Goldhurst Terrace, dated 25 February 2016 highlighted a further concern with regard to the sinking fund. The solicitors sent an email to Mr Taylor on 9 November 2015 requesting that the Firm pay the sinking fund amount to their client to cover the costs that the leaseholders owed for the roof repairs. This email was followed by a telephone call on 12 November 2015. The Panel was provided with the solicitors’ handwritten attendance note relating to that call which recorded that Mr Taylor stated that he would need to see the invoice from the roofing contractors in order to pay the money out. The Panel noted that the call was followed up with an email on the same date setting out what was expected from both parties. A formal demand for £11,000 of the sinking fund was subsequently sent on 2 January 2016 and a further request for payment was made on 12 January 2016.

74. The Panel was satisfied that there was no evidence that Mr Taylor had ever arranged for the funds to be returned as requested.

75. Accordingly, charge 2(b) was found proved.

Charge 2(c) – Found Proved

‘did not provide any or any adequate information and documentation to enable your client to monitor and review the management of the property’

76. The Panel accepted the documentary evidence within the complaint letter from Goldhurst Terrace's solicitors that Mr Taylor's non-cooperation restricted its client's ability to pursue the leaseholder for payment of the arrears. The Panel also accepted the assertion that, *'had Mark Taylor provided an accurate up to date account in relation to [the leaseholder] and/or an explanation of the figures when...first requested...it is likely that these monies would have been recovered...'* The Panel noted that the clients, in a letter dated 14 February 2016, described Mr Taylor's conduct as *'an example of quite exquisite non professionalism.'*

77. The Panel concluded that Mr Taylor did not provide adequate information to enable the management of the property to be monitored or reviewed effectively.

78. Accordingly, charge 2(c) was found proved.

Charge 2(d) – Found Proved

'did not provide any or any adequate information and documentation allowing your client to appoint new managing agents, or did not do so promptly'

79. The Panel noted that in the solicitors' complaint letter, on behalf of Goldhurst Terrace, concerns were raised with regard to Mr Taylor's lack of response to requests for information and documentation to assist in the instruction of new managing agents. The Panel noted that Mr Taylor was contacted on 20 January 2016 and informed that his assistance and co-operation would be required in transferring the client files to new managing agents. On 10 February 2016 an email was sent to Mr Taylor introducing the proposed new managing agents and requesting that a copy of all the files and financial information be sent to them. The Panel accepted that by the time the complaint letter was sent on 25 February 2016 the files and information had not been received.

80. The Panel concluded that Mr Taylor had not provided the requested information and documentation promptly and there was no evidence that they had ever been sent.

81. Accordingly, charge 2(d) was found proved.

Charge 2(e) – Found Proved

‘did not adequately respond to correspondence from your client sent after 31 August 2015.’

82. The Panel took into account its findings in relation to charges 2(a) – 2(d) and noted that from 1 September 2015 the response from Mr Taylor in respect of the issues raised was not adequate. He did not provide a satisfactory response to the matters raised by the solicitors regarding the service charge and the transfer of management responsibility to new managing agents.

83. Accordingly, charge 2(e) was found proved.

84. Having found the individual charges under charge 2 proved the Panel went on to consider the stem of the allegation and was satisfied that the findings in relation to allegations 2 (a) to (e) collectively demonstrate that Mr Taylor failed to carry out his professional work in a timely manner and also failed to have proper regard to the standards of service and customer care expected of a RICS member.

Charge 3(a) and 3(b) – Found Proved

‘In respect of the Ombudsman Services, you acted in a manner that was inconsistent with your professional obligations and / or with a lack of integrity in that you, as sole Principal of the Firm, failed:

- (a) To comply with a decision dated 10 August 2016;*
- (b) To comply with a decision dated 23 November 2016’*

85. The Panel was provided with a copy of the Ombudsman’s decision dated 10 August 2016. The Panel noted that a further letter, dated 7 September 2016, was sent to Mr Taylor which stated, *‘28 days has now passed and we have not received confirmation from Mark Taylor Chartered Surveyors that the award or remedy has been carried out. Please confirm that all required actions have been carried out within 7 days of the date of this letter.’* There was no evidence before the Panel that Mr Taylor ever responded to these letters.

86. The Panel was provided with a copy of the Ombudsman's decision dated 23 November 2016. The Panel noted that a further letter, dated 9 January 2017, was sent to Mr Taylor which stated, *'28 days has now passed and we have not received confirmation that the award or remedy has been implemented. Please ensure that the remedy is implemented within 28 days of the date of this letter or we will have no alternative but escalate the matter, which could result in expulsion from our service and referral to RICS Regulation.'* There was no evidence before the Panel that Mr Taylor ever responded to these letters.
87. Although the Ombudsman's decisions related to Mark Taylor Chartered Surveyors, as the Sole Principal Mr Taylor was responsible for complying with the decisions. The Panel noted that Mr Taylor was made bankrupt in July 2016 and the new Company acquired the goodwill and assets in August 2016, but this should not have prevented him from complying with the Ombudsman's decisions as the Firm remained a RICS regulated business and he was its Sole Principal. If there was any good reason for the Firm not being able to comply with the decisions Mr Taylor should have notified the Ombudsman.
88. The Panel was satisfied that Mr Taylor as the Sole Principal of the Firm had a duty to ensure the Firm complied with the Ombudsman's decisions and did not do so. The Panel concluded that this amounted to a failure as no good reason for the omission was provided.
89. Accordingly charges 3(a) and 3(b) were found proved.

Charge 3(c) – Found Proved

'To respond to the Ombudsman following its decision dated 31 March 2017 and / or inform the Ombudsman's Service of the Firm's interim suspension which prevented compliance with the said decision'

90. The Panel was provided with a copy of the letter from the Ombudsman dated 31 March 2017 which required Mr Taylor to take a number of specified actions which included making a goodwill payment of £50 to Ms T. The letter confirmed that the actions were to be carried out within 28 days. The Ombudsman complained to RICS in an email dated 4 July 2017 that the remedy had not been implemented within the required timescale.

91. There was no evidence before the Panel that Mr Taylor ever responded to the Ombudsman's decision. The Panel was satisfied that Mr Taylor, as the Sole Principal of the Firm, had a duty to ensure the Firm complied with the Ombudsman's decisions and did not do so. The Panel concluded that this amounted to a failure as no good reason for the omission was provided. If the Firm's interim suspension prevented compliance with the decision Mr Taylor should have informed the Ombudsman.

92. Accordingly charge 3(c) was found proved.

Charge 3(d) – Found Proved

'And your conduct at 3 (a)-(b) above exposed RICS to financial loss'

93. The Panel was provided with documentary evidence that, as Mr Taylor did not pay the goodwill payments as set out in the final decision letters from the Ombudsman dated 10 August 2016 and 23 November 2016, RICS had paid these sums. An email from RICS to Mr D, dated 26 January 2017, confirmed that payment of £80 was authorised to be made to him. A letter from RICS to Mr Taylor, dated 22 November 2017, confirmed that the Client Money Protection Scheme had paid Ms N the £2,588.09 which he had not returned to her. As a consequence of these payments RICS incurred financial loss.

94. Accordingly, charge 3(d) was found proved.

95. Having found the individual charges under charge 3 proved the Panel went on to consider the stem of the allegation. Having reminded itself of the RICS Professional Standards and the guidance in the case of *Wingate*, it was satisfied that the findings in relation to charges 3 (a) to (d) collectively demonstrated that Mr Taylor acted with a lack of integrity. Mr Taylor had voluntarily agreed to be bound by the ethics and standards of RICS and to abide by the Ombudsman's decisions. By failing to honour or respond to 3 separate decisions of the Ombudsman Mr Taylor demonstrated a complete disregard for his professional duties and his obligation to act with integrity at all times. In the Panel's view Mr Taylor's conduct fell far below that expected of a member of the profession.

Charge 4 (Dishonesty) - Found Not Proved

'You acted dishonestly in that you told the Ombudsman's Service that you thought an action plan had been sent to Mr D and / or payment authorised when you knew one or more of these statements were untrue.'

96. The Panel was provided with a witness statement from Nicola Kerr from the Ombudsman Services: Property. She exhibited two telephone attendance notes and her statement confirmed that she had created them on the phone logging system immediately after speaking to Mr Taylor on 17 October 2016 and 16 December 2016. As Ms Kerr was not called as a witness her evidence was hearsay. However, the statement confirmed that her notes of the conversations were a contemporaneous record of the discussions that took place and were made during the course of her duties as an investigator. The Panel accepted that she had made these notes as a professional person and had no reason to fabricate the details. In these circumstances, the Panel considered that the notes were an accurate and reliable record and that there was no realistic prospect that Ms Kerr would have a better recollection now than she had at the time the notes were made.
97. The Panel noted that during the 17 October 2016 conversation Mr Taylor stated that he believed that the action plan had already been sent and he had authorised the goodwill payment of £80 to be made to Mr D. In the later conversation on 16 December 2016 Mr Taylor acknowledged that he had not made the goodwill payment and indicated that he could not address the entryphone issue as the problem was due to poor installation by the developer and was not a service charge maintenance issue. RICS invited the Panel to conclude that the discrepancy between Mr Taylor's two conversations with the Ombudsman demonstrated dishonesty in light of the fact that the goodwill payment was not made or the action plan sent.
98. The Panel concluded that in order to prove dishonesty RICS would first have to establish that the statements that Mr Taylor made on 17 October 2016 were untrue. The Panel was not provided with any evidence that, at the time the statements were made, they were not true. According to Ms Kerr's recorded note, Mr Taylor did not state that *he* had made the payment or sent the action plan, but that he had "authorised" the payment and "believed" the action plan had already been sent. The Panel noted that although Mr Taylor was the Sole Principal of Mark Taylor Chartered Surveyors there were other staff members who could have been authorised by

him to make the payment or instructed to send the action plan. The Panel was satisfied that although no payment was subsequently made, it did not mean that the statement that Mr Taylor had authorised the payment was not true at the time it was uttered. Similarly, it was possible that at the time he made the statement, he believed the action plan had already been sent and therefore he did honestly hold that belief. The Panel has no evidence as to Mr Taylor's state of mind at the time of the October conversation. The Panel cannot infer from the fact that the actions referred to in the statements were not actually carried out, that the statements were untrue at the date of the conversation and were therefore dishonest.

99. The Panel noted that Mr Taylor did not dispute any of the charges but as the dishonesty and the lack of integrity allegations are alternatives, the Panel could place no reliance on his 'admission'.

100. Accordingly, charge 4 was found not proved.

Charge 5 (lack of integrity) – Found Not Proved

'You demonstrated a lack of integrity in that you told the Ombudsman's Service that you thought an action plan had been sent to Mr D and / or payment authorised and in doing so you were reckless as to the truth of one or more of those statements.'

101. In considering lack of integrity in respect of the telephone calls which took place between Ms Kerr and Mr Taylor on 17 October 2016 and 16 December 2016, the Panel took into account its findings in relation to charge 4. RICS invited the Panel to conclude that as an alternative to being dishonest Mr Taylor's responses demonstrated a reckless disregard for the truth of his statements.

102. The Panel took the view that, as in charge 4, RICS had to prove that the statements when made were not true in order to prove that Mr Taylor was "reckless as to the truth" of them. There was no such evidence before the Panel. As there was no evidence that the statements Mr Taylor made were not true at the time that he made them it would not be appropriate to characterise his comments as demonstrating a "reckless disregard for the truth".

103. Accordingly, charge 5 was found not proved.

Charge 6(a) – Found Not Proved (in its entirety)

‘You acted in a manner that was inconsistent with your professional obligations and / or with a lack of integrity in that you:

(a) Transferred the business of clients who had contracted with the Firm to a new firm without:

(i) Informing them at the time,

(ii) Seeking their consent,

(iii) Arranging / facilitating / encouraging clients to transfer money held by the Firm at the same time as their business’

104. The Panel acknowledged that there was no evidence that Mr Taylor informed his clients of the sale at any time prior to, during or after the sale of the Firm’s assets. There was also no evidence that Mr Taylor sought his clients’ consent or encouraged them to transfer their money held by the Firm to the new Company. However, Charges (i) to (iii) are predicated on the basis that it was Mr Taylor *himself* who transferred the business of clients who had contracted with the Firm to a new firm.

105. The Panel noted that Mr Taylor was made bankrupt on 27 July 2016 and thereafter his assets were held in trust by the Trustees in Bankruptcy. It was the Trustees that sold the Firm to the new Company in August 2016. Although the Panel accepted the oral evidence of Mrs Leeder that she was informed by Mr Taylor that he had facilitated a smooth transition between the Firm and the new Company, the Panel found that Mr Taylor himself did not ‘transfer’ the business because he was not in a position to do so by reason of his bankruptcy. The Panel was aware that the wording of the charges had to be given their ordinary natural meaning and concluded that ‘transfer’ in this context was not synonymous with ‘facilitated the transfer’.

106. Accordingly, charge 6(a) was found not proved.

Charge 6(b) – Found Proved (inconsistent with professional obligations and lack of integrity)

‘Failed to ensure the Firm had adequate and appropriate professional indemnity insurance.’

107. The Panel accepted the documentary evidence and the oral evidence of Mrs Leeder that when she visited the Firm on 30 November 2016 she made a request to see the Professional Indemnity Insurance policy for the Firm. Mrs Leeder informed the Panel that Mr Taylor told her that he had been unable to obtain a new policy of insurance after the previous policy lapsed on 30 September 2016. During her oral evidence Mrs Leeder stated that Mr Taylor also informed her that he had not been able to obtain run off cover as he was an undischarged bankrupt. She also informed the Panel that Mr Taylor had a duty to inform the insurance company of any change in his circumstances. Therefore, there was a risk that the insurance policy had in fact been invalidated on 27 July 2016 when Mr Taylor was made bankrupt.
108. The Panel accepted the oral evidence of Mrs Leeder that at the time of her visit on 30 November 2016, client funds amounting to £970,959.51 were held by the Firm and that this sum was uninsured and held in client accounts for which Mr Taylor was the sole signatory. Mrs Leeder informed the Panel that the Client Money Protection Scheme was limited to £50,000 per client account and was a scheme of last resort. Therefore, there was no guarantee that the uninsured monies held in the client account would have been protected under that scheme. Mrs Leeder stated during her oral evidence that when she visited as recently as May 2018, there were still monies held in the Firm's uninsured client accounts which belonged to clients with whom Mr Taylor was still dealing personally.
109. The Panel was satisfied that Mr Taylor had an ongoing duty to ensure that the client monies held by the Firm were adequately protected by Professional Indemnity Insurance. The Panel was also satisfied that he did not do so. The Panel concluded that this amounted to a failure as there was no evidence that any steps were taken to address this issue.
110. Accordingly charge 6(b) was found proved.

Charge 6(c) – **Found Proved** (inconsistent with professional obligations)

'Failed to ensure the Firm had appropriate monthly reconciliation procedures in place to preserve client money'

111. The Panel accepted the written and oral evidence of Mrs Leeder that when she visited the Firm she was provided with evidence that some reconciliations were taking place. For example, she was provided with a print out of the cash book which was reconciled with the online bank statement. However, she stated that this was only the first part of the reconciliation that should have been taking place on a monthly basis and was therefore not adequate. It also only provided a snapshot of the position on the day the partial reconciliation took place because appropriate records were not being kept. She informed the Panel that for client monies a 3-way reconciliation was required between the bank statements, the cash book and the client ledger and a record needed to be kept rather than simply viewing the figures on a screen. She stated that, without this reconciliation, client funds would be exposed to the risk of error, including the account becoming overdrawn, or the possibility of deliberate wrongdoing. Mrs Leeder also informed the Panel that as work was being carried out by the new Company but client money was retained by the Firm, in that unusual situation she would have expected 3-way reconciliations between the client accounts of the Firm and of the new Company.
112. The Panel was satisfied that Mr Taylor had a duty to preserve client money by undertaking monthly 3-way reconciliations. The Panel was also satisfied that he did not do so. The Panel concluded that this amounted to a failure as no good reason for the omission was provided.
113. Accordingly charge 6 (c) was found proved.
114. Having found charges 6 (b) and 6 (c) proved the Panel went on to consider the stem of the allegation with regard to the conduct being inconsistent with professional obligations and lack of integrity.
115. With regard to charge 6 (b), the Panel accepted the oral evidence of Mrs Leeder that Mr Taylor had told her that the reason the client funds had not been transferred to the new Company was that he wanted to avoid informing clients that he had been made bankrupt. The Panel found that Mr Taylor should have transferred the monies in the Firm's client account to the new Company's client accounts promptly, where they would have been protected by Professional Indemnity Insurance, but chose not to do so because he required consent from the clients to transfer the funds to a new legal entity and this would have alerted them to his bankruptcy. Instead of prioritising the protection of the client monies, Mr Taylor chose to put his own interests in concealing his bankruptcy first. The Panel concluded that Mr Taylor's failure to

protect his clients' interests was fundamentally inconsistent with his professional obligations and that his lack of transparency and putting his own interests above those of his clients' demonstrated a lack of integrity. In reaching this conclusion the Panel had regard to the RICS Professional Standards and guidance provided in the case of *Wingate*, as set out above.

116. With regard to charge 6 (c) the Panel was satisfied that monthly 3-way reconciliations were required in order to protect client monies from the risk of loss as a result of error or wrongdoing. The Panel concluded that the risk was serious because (i) there was over £970,000 in the client account, (ii) these monies were uninsured, and (iii) there was an unusual arrangement between the new Company who were carrying out the work on behalf of clients and the Firm which had retained the client accounts with Mr Taylor as the sole signatory. The Panel concluded that Mr Taylor's failure to adequately address this risk by carrying out the necessary reconciliations demonstrated conduct which was inconsistent with his professional obligations. However, the Panel did not take the view that this failure was sufficient to demonstrate a lack of integrity. It took into account that some checks were carried out, and the failings found under this charge related primarily to shortcomings in procedure rather than to a lack of ethical probity or a wish on Mr Taylor's part to put his own interests over those of his clients.

Charge 7(a) – Found Proved

'You failed to carry out your professional work in a timely manner and / or with proper regard for the standards of service and customer care expected of you in respect of a report commissioned by AH Page solicitors in that you failed:

(a) To complete the report in a timely manner or at all'

117. The Panel was provided with a copy of the letter of complaint to RICS, dated 28 March 2017, from AH Page Solicitors. The solicitors stated that the Firm was instructed to undertake a Rental Valuation Report on behalf of one of their clients. The fee for this work was £750 plus VAT (a total of £900). The Panel was also provided with the Terms of Engagement letter, dated 27 April 2016, which confirmed the instruction and the fee. The Panel noted that the fee was received by means of a cheque dated 29 April 2016.
118. The Panel was satisfied that, as Sole Principal of the Firm, Mr Taylor was instructed to produce a report and therefore had a duty to produce it in a timely manner. The Panel was

provided with copies of correspondence which demonstrated that by 7 September 2016, the report had not been produced. The solicitors sent an email to Mr Taylor on that date stating, *'I have my client with me who is very disappointed that despite your promise to me some 2 weeks ago there is still no valuation.'* A further email was sent by the solicitors on 27 September 2016 which stated, *'I rang last week and one of the staff said the report would be in tomorrow's post, again an empty promise.'* The solicitors subsequently sent hard copy letters to Mr Taylor following up the matter on 5 October 2016, 4 November 2016 and 20 January 2017.

119. The report had not been produced by March 2017 when the complaint was made to RICS and there was no evidence before the Panel that Mr Taylor ever produced the report. The Panel concluded that this amounted to a failure as no good reason for the non-completion was ever provided.

120. Accordingly, charge 7(a) was found proved.

Charge 7(b) – Found Proved

'Having failed to complete the report, you failed to refund your fee'

121. The Panel took into account its findings in relation to charge 7(a) and noted that AH Page Solicitors requested the return of the fee in the email dated 7 September 2016. The request was repeated in the letter dated 5 October 2016, and again in the letter dated 20 January 2017.

122. The fee had not been returned by March 2017 when the complaint was made to RICS and there was no evidence before the Panel that Mr Taylor ever refunded the fee. If Mr Taylor was unable to refund the fee due to issues associated with his bankruptcy and the sale of the Firm he should have said so. The Panel concluded not refunding the fee amounted to a failure as no good reason was ever provided.

123. Accordingly, charge 7(b) was found proved.

Charge 7(c) – Found Proved

‘Respond to correspondence regarding this report in an appropriate and / or timely manner’

124. The Panel took into account its findings in relation to charge 7(a). The Panel was satisfied that Mr Taylor did not respond at all to the correspondence sent by AH Page Solicitors from at least 7 September 2016 onwards. The only response received from Mr Taylor in respect of the report was during a telephone call with RICS. Mr Taylor was telephoned by RICS on 30 August 2017 regarding the complaint from the solicitors. The telephone attendance note states, *‘He said that his colleague...was actually dealing with this complaint but said he would call me later today...’* The Panel was satisfied that Mr Taylor did not call back and that RICS received no other communication from him with regards to the report.
125. The Panel concluded that Mr Taylor did not respond appropriately or in a timely manner to correspondence regarding the report. The Panel concluded that this amounted to a failure as no good reason was ever provided.
126. Accordingly, charge 7(c) was found proved.
127. Having found charges 7 (a) to (c) proved the Panel went on to consider the stem of the allegation and was satisfied that the individual findings collectively demonstrated that Mr Taylor failed to carry out his professional work in a timely manner and also failed to have proper regard to the standards of service and customer care expected of a RICS member.

Charge 8(a) – Found Proved

‘You failed to carry out your professional work in a timely manner and / or with proper regard for the standards of service and customer care expected of you in respect of your management of Brooklyn Court in that you failed:

(a) To respond in an appropriate and / or timely way to communications and / or complaint(s) from Ms T, or those acting on her behalf’

128. The Panel was provided with a copy of the formal complaint that Ms T made to the Firm dated 14 October 2016. She complained of a *‘lack of regard for timely responses to emails and*

calls.’ Ms T went on to state that she, ‘had no response until [she] threatened to complain and/or not pay [her] service charge. ... the responses are often lacking and not answering any of [her] questions.’ The Panel noted that emails were sent to Mr Taylor, regarding defects to the property at Brooklyn Court, on numerous occasions between 5 November 2015 and 30 September 2016 to which Ms T received no substantive response. It appears that Mr Taylor visited the property in August 2016 and sent brief emails on 11 August 2016 and 26 August 2016. Neither of these emails addressed the specific concerns that had been raised. The email sent on 26 August 2016 stated, *‘Sorry, I have been busy on preparation for a client’s Court case, which is due next Wednesday, hence I am rather behind with other work. I hope to catch up after next Wednesday, Brooklyn Court is in my priority pile!’* A further email was sent by Mr Taylor to Ms T 14 October 2016 in which he apologised that no-one had responded to her emails or messages.

129. Ms T’s solicitors wrote to Mr Taylor on a number of occasions regarding the service charge. In an email to Ms T sent on 11 October 2016 the solicitors stated, *‘Your file is still open because I have heard absolutely nothing from Mark Taylor regarding the service charge accounts or any information regarding billing for the major works.’* The solicitors confirmed that the only communication had been a letter, dated 26 April 2016, which stated that the service charge account was *‘presently being audited.’*

130. The Panel, having had sight of the correspondence between Ms T, the solicitors and Mr Taylor was satisfied that Mr Taylor’s responses were not adequate. The Panel concluded that Mr Taylor had a duty to address the concerns and complaints that had been raised by Ms T and her solicitor appropriately and in a timely manner. The Panel was satisfied that Mr Taylor did not do so. The Panel concluded that this amounted to a failure as no good reason was ever provided.

131. Accordingly, charge 8(a) was found proved.

Charge 8(b) – Found Proved

‘To provide a copy of the accounts, as requested, either at all or in a timely manner’

132. The Panel noted that Ms T requested the service charge accounts in an email, dated 18 April 2016, and the solicitors wrote to Mr Taylor on 1 July 2016 which was a follow up to an earlier letter dated 26 April 2016. In the July letter the solicitors stated, *'We refer to your letter of 26 April, wherein you stated that the service charge accounts for the financial year ended 31 December 2015 were anticipated within the next six weeks. Could you now please let us have a copy of the accounts...'*
133. The service charge accounts had not been produced by the time the Ombudsman determined Ms T's complaint in the final decision letter dated 31 March 2017 and there was no evidence before the Panel that Mr Taylor ever produced the accounts. The Panel concluded that this amounted to a failure as no good reason was ever provided.
134. Accordingly, charge 8(b) was found proved.
135. Having found charges 8 (a) and (b) proved the Panel went on to consider the stem of the allegation and was satisfied that the individual findings collectively demonstrated that Mr Taylor failed to carry out his professional work in a timely manner and also failed to have proper regard to the standards of service and customer care expected of a RICS member.

Charge 9(a) – 9(g) – Found Proved (in its entirety)

'You have failed to co-operate fully with RICS Regulation officers investigating one or more of the following complaints:

- a. A complaint received regarding the management of 25 Goldhurst Terrace;*
- b. A complaint received from the Ombudsman's Service regarding a failure to comply with a decision dated 10 August 2016;*
- c. A complaint received from the Ombudsman's Service regarding a failure to comply with a decision dated 23 November 2016;*
- d. A complaint from the Ombudsman's Service regarding an alleged failure to comply with a decision dated 31 March 2017;*
- e. A complaint received from AH Page Solicitors regarding a valuation report;*
- f. A complaint received regarding the management of 87 Grosvenor Avenue;*
- g. A complaint received following an inspection of the Firm by Ms Leeder.*

(a) Goldhurst Terrace

136. The Panel was provided with correspondence relating to the Goldhurst Terrace complaint. The Panel noted that Mr Taylor was informed of the complaint in an email from RICS, dated 17 March 2016, and was invited to provide a response. As no response was provided, a telephone call was made to Mr Taylor on 5 April 2016, during which he stated that he had not received the March 2016 email due to IT issues. The original email was re-sent on 5 April 2016 and on the same day Mr Taylor sent a return email stating, *'Email received today. We will resolve asap.'* There was no response despite a telephone message that was left with a member of staff on 13 April 2016. RICS sent a further email on 20 April 2016 followed by a further telephone call on 28 April 2016. Mr Taylor was subsequently informed in an email dated 11 May 2016 that the investigation had been concluded and the matter had been referred to the Head of Regulation.

(b) Ombudsman Decision - 10 August 2016

137. The Panel was provided with correspondence relating to the complaint which had been referred to the Ombudsman in respect of Harrow Court. The Panel noted that the Ombudsman in its complaint to RICS, dated 10 January 2017 referred to Mr Taylor's non-implementation of the remedy it had awarded to Mr D. Mr Taylor was informed of the Ombudsman's complaint by RICS in an email dated 26 January 2017 and was invited to provide a response. Although RICS received a read receipt which confirmed that the email was read on 26 January 2017, no response was provided. A further email was sent to Mr Taylor on 16 February 2017 followed by a telephone call on 3 March 2017. During the March 2017 telephone call Mr Taylor indicated that he wanted to meet with someone from RICS to discuss all outstanding matters and would provide a response by email. A follow up email sent on 3 March 2017 requested that Mr Taylor provide his response by 10 March 2017. There was no response and a final reminder was sent to Mr Taylor by email on 31 March 2017, to which there was no response. The matter was referred to the Head of Regulation on 10 April 2017.

(c) Ombudsman Decision - 23 November 2016

138. The Panel was provided with correspondence relating to the referral to the Ombudsman in respect of the Brooklyn Court complaint regarding Ms N. Mr Taylor was informed of the referral

from the Ombudsman by RICS in a letter dated 20 June 2017, which was sent by recorded delivery, and he was invited to provide a response. As no response was received RICS sent Mr Taylor an email on 5 July 2017 and left a telephone message with a member of staff at his office on 13 July 2017. A further letter was sent by recorded delivery to Mr Taylor on 22 November 2017 followed by a telephone message on 29 November 2017. In a letter dated 1 December 2017, which was emailed to Mr Taylor, he was informed that the matter had been referred to a Disciplinary Panel.

(d) Ombudsman Decision - 31 March 2017

139. The Panel was provided with correspondence relating to the referral to the Ombudsman in respect of the Brooklyn Court complaint regarding Ms T. Mr Taylor was informed of the referral from the Ombudsman by RICS in a letter dated 17 June 2017, which was sent by recorded delivery, and was invited to provide a response. As no response was received RICS sent Mr Taylor an email on 11 October 2017. In a letter dated 6 November 2017, RICS informed Mr Taylor that the matter had been referred to a Disciplinary Panel.

(e) AH Page Solicitors

140. The Panel was provided with correspondence relating to the complaint made by AH Page Solicitors. Mr Taylor was informed of the complaint by RICS in an email dated 29 June 2017 enclosing documents in support of the complaint. As no response was received RICS sent Mr Taylor a further email on 4 August 2017. On 30 August 2017 RICS spoke to Mr Taylor on his mobile telephone and he confirmed that his colleague, Elliott Taylor was dealing with the complaint but that he (Mr Mark Taylor) would call RICS back later that day. RICS telephoned Mr Taylor again on 31 August 2017 and left a telephone message on the voicemail of his mobile telephone and with a member of staff at his office. There was no return call from Mr Taylor or any further communication and on 15 September 2017 Mr Taylor was notified by email that the matter had been referred to the Head of Regulation.

(f) 87 Grosvenor Avenue

141. The Panel was provided with correspondence relating to the Grosvenor Avenue complaint made on behalf of the residents. The Panel noted that Mr Taylor was informed of the complaint in an email from RICS, dated 3 March 2016, and was invited to provide a response. As no response was provided, a further email was sent to Mr Taylor on 24 March 2016 and a telephone message was left at his office on 13 April 2016. A letter was sent by recorded delivery on 14 April 2016 followed by a further telephone message left at his office on 28 April 2016. There was still no response from Mr Taylor and so RICS sent another recorded delivery letter to him on 3 May 2016 and again on 18 May 2016. Mr Taylor was then informed in an email dated 2 June 2016, that the matter had been referred to a Disciplinary Committee.

142. Mr Taylor subsequently responded to the Grosvenor Avenue complaint by letter dated 8 July 2016. In that letter he did not mention the RICS decision to take disciplinary action but sought to address the concerns that were raised by RICS in its letter to him dated 3 May 2016. Mr Taylor apologised for the delay in responding and attributed this to IT issues. He provided partial replies to the questions asked and submitted copies of some email correspondence, by which he sought to answer aspects of the complaint. The Panel has earlier found that the documents provided did not adequately answer that complaint. There was no reference in Mr Taylor's letter to the RICS letters sent by recorded delivery, and no explanation as to how the IT issues had prevented him from responding to the numerous efforts to make contact with him between March and July 2016.

143. Further queries were raised by RICS in emails dated 20 December 2016 and 26 January 2017. As there was no further response from Mr Taylor, RICS informed him in an email dated 15 March 2017 that the matter had been referred to a Disciplinary Panel.

(g) Inspection by Mrs Leeder

144. Following Mrs Leeder's Regulatory Review Visit on 30 November 2016, RICS made an application for Interim Measures. Mr Taylor was informed in a letter, dated 14 December 2016, that the application would be heard on 22 December 2016. Mr Taylor informed RICS in an email dated 15 December 2016 that, he was *'in the process of transferring all bank account funds to the client bank accounts of Taylor Surveyors'*. Mrs Leeder's report was sent to Mr Taylor on 20 January 2017 and he was invited to respond. No response was received, and a further letter was sent to him by email on 7 February 2017 and by post on 14 February 2017. As there was no

response from Mr Taylor, RICS informed him in an email, dated 27 February 2017, that the matter had been referred to the Head of Regulation. The Panel noted that Mr Taylor wrote to clients in February 2017 informing them that, *'the firm has now incorporated as Taylor Surveyors Ltd and will practice as Taylor Chartered Surveyors.'*

145. The Panel was satisfied that Mr Taylor had a duty to respond to the queries that were raised by RICS. The limited response from Mr Taylor in his letter, dated 8 July 2016, and the efforts he made following Mrs Leeder's Regulatory Review Visit were insufficient to demonstrate co-operation with RICS. The complaints required prompt action and a genuine effort to co-operate with RICS in resolving the concerns. Instead Mr Taylor chose to disregard almost all of the numerous efforts that were made to make contact with him and, as late as February 2017, was still trying to avoid alerting his clients to his bankruptcy by informing them that the Firm had been incorporated, when in fact it had been sold.

146. The Panel concluded that Mr Taylor's conduct in relation to charges 9(a), (b), (c), (d), (e), (f) and (g) amounted to a failure, as no good reason was ever provided for his lack of co-operation.

147. Accordingly, charges 9(a) – (g) were found proved.

Allegations against the Firm

Charge 1(a) - (e) – Found Proved (in its entirety)

'The Firm failed to carry out professional work appropriately in that, in respect of 87 Grosvenor Avenue, it failed:

- (a) To fulfil its duties in respect of assisting with negotiating the purchase of the freehold;*
- (b) To address maintenance concerns which had been brought to its attention at all or in a timely manner;*
- (c) To arrange building insurance;*
- (d) To comply with or appropriately reply to requests for the return of outstanding funds;*
- (e) Adequately to respond to correspondence and / or complaints raised.'*

148. Charges 1(a) - (e) against the Firm mirrored charges 1(a) – (e) against Mr Taylor. As Mr Taylor was the Sole Principal of the Firm he was responsible for ensuring that the Firm complied

with its duties and obligations. The Panel found these charges proved for the same reasons as the charges against Mr Taylor were found proved.

Charge 2(a) - (e) – Found Proved (in its entirety)

'The Firm failed to carry out its professional work in a timely manner and / or with proper regard for standards of service and customer care expected of it in that whilst acting as managing agents for 25 Goldhurst Terrace Management Co. Ltd.it:

(a) did not collect service charge arrears and/or respond appropriately to queries from its client regarding these arrears;

(b) did not pay out monies held in a sinking fund to the client on request, or did not do so promptly;

(c) did not provide any or any adequate information and documentation to enable the client to monitor and review the management of the property;

(d) did not provide any or any adequate information and documentation allowing the client to appoint new managing agents, or did not do so promptly;

(e) did not adequately respond to correspondence from the client sent after 31 August 2015.'

149. Charges 2(a) – (e) against the Firm mirrored charges 2(a) – (e) against Mr Taylor. As Mr Taylor was the Sole Principal of the Firm he was responsible for ensuring that the Firm complied with its duties and obligations. The Panel found these charges proved for the same reasons as the charges against Mr Taylor were found proved.

Charge 3(a) - (c) – Found Proved (in its entirety)

The Firm acted in a manner that was inconsistent with its professional obligations and / or with a lack of integrity in respect of the Ombudsman Services in that it failed:

(a) To comply with a decision dated 10 August 2016;

(b) To comply with a decision dated 23 November 2016;

(c) To respond to the Ombudsman following its decision dated 31 March 2017 and / or inform the Ombudsman's Service of the Firm's interim measures suspension which prevented compliance with the said decision.

150. Charges 3(a) – (c) against the Firm mirrored charges 3(a) – (c) against Mr Taylor. As Mr Taylor was the Sole Principal of the Firm he was responsible for ensuring that the Firm complied with its duties and obligations. The Panel found these charges proved for the same reasons as the charges against Mr Taylor were found proved.

Charge 4(a) – Found Not Proved (in its entirety)

‘The Firm acted in a manner that was inconsistent with its professional obligations and / or with a lack of integrity in that it:

(a) Transferred the business of its clients to a new firm without:

(i) Informing them at the time,

(ii) Seeking their consent,

(iii) Arranging / facilitating / encouraging clients to transfer money held by the Firm at the same time as their business,

151. Charge 4(a) against the Firm mirrored charge 6(a) against Mr Taylor. The Panel found this charge not proved for the same reasons as the charge against Mr Taylor was found not proved.

Charge 4(b) – Found Proved

The Firm acted in a manner that was inconsistent with its professional obligations and / or with a lack of integrity in that it:

(b) The Firm failed to ensure at all times it had adequate and appropriate professional indemnity insurance.

Contrary to Rule 3 of the Rules of Conduct for Firms 2007

152. Charge 4(b) against the Firm mirrored charge 6(b) against Mr Taylor. As Mr Taylor was the Sole Principal of the Firm he was responsible for ensuring that the Firm complied with its duties and obligations. The Panel found this charge proved for the same reasons as the charge against Mr Taylor was found proved. Further, for the same reasons as in charge 6(b) against Mr Taylor, it concluded that the Firm’s failure to ensure that it had adequate and appropriate Professional

Indemnity Insurance was inconsistent with its professional obligations and that it also demonstrated a lack of integrity.

Charge 5 – Found Proved

‘The Firm failed to ensure at all times it had adequate and appropriate professional indemnity insurance.’

Contrary to Rule 9 of the Rules of Conduct for Firms 2007

153. The Panel took into account its findings in relation to charge 4(b) against the Firm. The Panel was satisfied that the Firm did not have adequate Professional Indemnity Insurance in place to protect the money held in the Firm’s client accounts. It accepted the evidence of Mrs Leeder that in addition to its lack of Professional Indemnity Insurance cover the Firm also did not have any run-off cover. The Panel concluded that the lack of Professional Indemnity Insurance amounted to a failing.

Charge 6 – Found Proved

‘The Firm failed to ensure it had appropriate monthly reconciliation procedures in place to preserve client money.’

154. Charge 6 against the Firm mirrored charge 6(c) against Mr Taylor. As Mr Taylor was the Sole Principal of the Firm he was responsible for ensuring that the Firm complied with its duties and obligations. The Panel found this charge proved for the same reasons as charge 6(c) against Mr Taylor was found proved.

Charge 7(a) - (c) – Found Proved

'The Firm failed to carry out its professional work in a timely manner and / or with proper regard for the standards of service and customer care expected of it in that in respect of a report commissioned by AH Page solicitors it failed:

(a) To complete the report in a timely manner or at all;

(b) Having failed to complete the report, it failed to refund the fee;

(c) Respond to correspondence regarding this report in an appropriate and / or timely manner.'

155. Charges 7(a) – (c) against the Firm mirrored charges 7(a) - (c) against Mr Taylor. As Mr Taylor was the Sole Principal of the Firm he was responsible for ensuring that the Firm complied with its duties and obligations. The Panel found these charges proved for the same reasons as charges 7(a) – (c) against Mr Taylor were found proved.

Charge 8(a) – (d)– Found Proved (in its entirety)

'The Firm failed to operate a Complaints Handling Procedure in that it did not provide documentation when requested and / or respond either at all or in a timely manner to a formal complaint regarding:

(a) 25 Goldhurst Terrace;

(b) 87 Grosvenor Avenue;

(c) Services commissioned by AH Page Solicitors;

(d) Brooklyn Court.'

156. The Panel is of the view that any expression of dissatisfaction by a client should be deemed to be a complaint; it does not have to be formally stated to be a 'complaint'. Rule 5 of the Rules of Conduct for Firms requires firms to operate a Complaints Handling Procedure and maintain a complaints log.

157. The Panel took into account its findings in relation to charge 1, 2, 7 and 8 in respect of Mr Taylor. The Panel concluded that the Firm did not respond to the letter of complaint sent by the solicitors acting on behalf of the Goldhurst Terrace residents. Similarly, the Firm did not respond to the formal complaint, dated 17 December 2015, submitted on behalf of the Grosvenor Avenue residents. There was also no response to the various requests for a refund from AH Page solicitors. Although Ms T of Brooklyn Court was provided with a notice setting out a Complaints

Handling Procedure the Panel noted that this was from the new Company and not from the Firm. In any event there was no response to her complaint.

158. Accordingly, charge 8 was found proved in its entirety.

Charges 9(a) and 9(b) – Found Proved

‘The Firm failed to carry out its professional work in a timely manner and / or with proper regard for the standards of service and customer care expected of it in that in respect of the management of Brooklyn Court it failed:

(a) To respond in an appropriate and / or timely way to communications and / or complaint(s) from Ms T, or those acting on her behalf;

(b) To provide a copy of the accounts, as requested, either at all or in a timely manner.’

159. Charges 9(a) and 9(b) against the Firm mirrored charges 8(a) and 8(b) against Mr Taylor. As Mr Taylor was the Sole Principal of the Firm he was responsible for ensuring that the Firm complied with its duties and obligations. The Panel found these charges proved for the same reasons as these charges were found proved against Mr Taylor.

Charges 10(a) - (g) – Found Proved (in its entirety)

‘The Firm failed to co-operate fully with RICS Regulation officers investigating one or more of the following complaints:

(a) A complaint received regarding the management of 25 Goldhurst Terrace Management Co. Ltd;

(b) A complaint received from the Ombudsman’s Service regarding a failure to comply with a decision dated 10 August 2016;

(c) A complaint received from the Ombudsman’s Service regarding a failure to comply with a decision dated 9 December 2016;

(d) A complaint from the Ombudsman’s Service regarding a failure to comply with a decision dated 31 March 2017;

(e) A complaint received from AH Page Solicitors regarding a valuation report;

(f) A complaint received regarding the management of 87 Grosvenor Avenue;

(g) A complaint received following an inspection of the Firm by Ms Leeder.'

160. Charges 10(a) – (g) against the Firm mirrored charges 9(a) - (g) against Mr Taylor. As Mr Taylor was the Sole Principal of the Firm he was responsible for ensuring that the Firm complied with its duties and obligations. The Panel found these charges proved for the same reasons as they were found proved against Mr Taylor.

Liability to Disciplinary Action

161. Mr Taylor's status as a member of RICS and the status of the Firm as an RICS regulated firm carry a legitimate expectation and an obligation to comply with RICS Rules. The Panel noted that all members agree to adhere to the RICS Rules, Regulations and Bye-Laws and accept that they may be subject to disciplinary action if they fail to do so.

162. The Panel took the view that Mr Taylor's failure to carry out his professional work to the requisite standard and to respond appropriately to the complaints that were made by various residents, their representatives, the Ombudsman and RICS amounted to a serious falling short of his professional duties and obligations. The Panel noted that a number of the factual findings demonstrated a lack of integrity and pre-date Mr Taylor's bankruptcy by approximately 18 months. Mr Taylor's failings in his personal capacity and as the Sole Principal of the Firm persisted over a significant period of time and the maintaining of client monies in an uninsured client account appears to be ongoing. The failings cannot be described as one-off instances as they were repeated on multiple occasions in relation to multiple clients. These failings demonstrated a complete disregard for the high standards expected of Members and Firms.

163. The Panel concluded that Mr Taylor's acts or omissions and those of the Firm, of which he was Sole Principal, had the potential to seriously undermine public trust and confidence in the profession and the regulatory process. In reaching this conclusion the Panel noted that Mr Taylor had demonstrated no insight with regard to the potential and actual harm caused to clients or to the reputation of the profession. Nor did he demonstrate any insight with regard to the purpose of the regulatory process or the importance of complying with Ombudsman decisions.

164. In these circumstances, the Panel was satisfied that Mr Taylor was liable to disciplinary action under Bye-Laws 5.2.2(a) and 5.2.2(c). Similarly, The Panel was satisfied that the Firm was liable to disciplinary action under Bye-Laws 5.3.2(a) and 5.3.2(c).

The Panel's Approach to Sanction

165. The Panel bore in mind that the purpose of sanctions is not to be punitive, though they may have that effect. The purpose of sanctions is to protect the public, to declare and uphold the standards of the profession and to safeguard the reputation of the profession and that of RICS as its regulator. Sanctions must be proportionate and considered in order of severity, starting with the least restrictive until a sanction which meets the public interest has been reached.

166. Ms Sherlock provided the Panel with written confirmation that an adverse disciplinary finding had been made against the Firm on 10 June 2009. The Panel noted that the formal charges against the Firm stated that (i) [It] *'did not carry out its professional work with expedition and with proper regard for the standards of service and customer care expected by its clients...in that it failed to provide written reports for which it had received fees – Contrary to Rule 5 of the Rules of Conduct for firms 2007'* and (ii) *'between 10 October and 10 December 2008 failed to co-operate fully with RICS staff in that it did not respond to written correspondence and telephone calls to the firm relating to complaints...Contrary to Rule 15 of the Rules of Conduct for Firms 2007.'* The sanction imposed was a £2,000 fine in respect of each charge (£4,000 in total) and a direction that the Firm's registration for regulation be removed. The Panel was informed by Ms Sherlock that the Firm subsequently made an application to be reinstated to regulation which was granted by a Registration Panel on 11 March 2015.

167. The Panel took into account the Firm's disciplinary history, accepted the advice of the Legal Assessor and had regard to the RICS Sanctions Policy. It considered carefully the aggravating factors of this case and the mitigating factors as submitted by Mr Taylor in his email dated 22 June 2018.

Decision on Sanction

168. The Panel noted that the charges against the Firm relating to Grosvenor Avenue took place during the period of time when the Firm was not regulated by RICS, it having been removed from registration from June 2009 until March 2015. As the Firm was not subject to regulation by RICS during this period, the Panel disregarded its factual findings in respect of charge 1 in relation to the Firm, and proceeded to consider the issue of sanction (in relation to the Firm) based solely on the remaining charges that were found proved against it.
169. Save for the matter explained at Paragraph 168 above, in making its decision on sanction, the Panel considered the position of Mr Taylor and the Firm together, since Mr Taylor is the Sole Principal and the person responsible for ensuring that the Firm complied with its duties and obligations.
170. The Panel identified the following aggravating factors:
- The breaches cannot be described as isolated or one-off incidents as there were multiple failures involving multiple clients.
 - The breaches were repeated, conscious and deliberate.
 - There was a persistent disregard for the regulatory process, clients and the Ombudsman.
 - Complainants were reimbursed or compensated by RICS and received no form of compensation from the Firm despite the decisions of the Ombudsman.
 - The breaches of Rule 3 (Members and Firms) and Rule 9 (Firms) in relation to the absence of Professional Indemnity Insurance appears be ongoing.
 - Significant amounts of client monies were exposed to unwarranted risk of financial loss.
 - There has been no significant or meaningful engagement from Mr Taylor and/or the Firm.
 - There is an absence of insight.
 - The previous adverse regulatory findings against the Firm concerned very similar matters.

171. Mr Taylor, in his email dated 22 June 2018, referred to a number of matters which he may have considered to be mitigating factors. He stated that he fully co-operated '*with the individual who attended to undertake the audit*' and '*the outcome of this audit did not produce any misuse of any client funds.*' However, the Panel did not consider these to be mitigating factors as Mr Taylor was obliged to co-operate with Mrs Leeder during her visit to the Firm and the Panel accepted her evidence that the documents she requested were not readily provided. Furthermore, although there is no evidence that any clients have lost money, the funds in the client accounts have been, and continue to be, exposed to an unwarranted risk of financial loss which is detrimental to the clients.
172. The Panel identified and applied the most weight to the following mitigating factor:
- Mr Taylor had experienced difficult personal financial circumstances which culminated in him being made bankrupt in July 2016.
173. In the absence of any other information from Mr Taylor, the Panel was unable to identify any other mitigating factors.
174. The Panel first considered taking no action. It concluded that, in view of the nature and seriousness of the Rule breaches, to take no action regarding Mr Taylor's membership or the Firm's registration would be wholly inappropriate. The Panel concluded that taking no action would be insufficient to protect the public, and would not maintain public confidence or uphold the reputation of the profession.
175. The Panel next considered whether to impose a Caution but considered this to be insufficient to mark the seriousness and persistent nature of the failures. The Panel was unable to conclude that the conduct was unlikely to be repeated, particularly as the absence of Professional Indemnity Insurance appears to be an ongoing feature, and in light of the number and repetitive nature of the failures to maintain professional standards. The Panel concluded that the breaches, which had occurred over a lengthy period of time, were not 'minor', nor could they be described as isolated incidents. Therefore, the Panel concluded that a Caution was not an appropriate and proportionate sanction.

176. The Panel next considered whether to impose a Reprimand. The Panel concluded that the risk of potential harm to clients was so serious that it required more than a formal admonishment to declare and re-affirm the standards expected of members and registered firms. The Panel was also satisfied that a Reprimand would not send a clear message to the wider profession about the standards of conduct expected and would therefore be insufficient to uphold public trust and confidence in the profession and the regulatory process.
177. The Panel went on to consider whether a Fine should be imposed. The Panel concluded that a financial penalty alone would not adequately address the Panel's concern regarding the risk of harm to the public and public confidence in the profession. The Panel also concluded that it would be disproportionate to impose a fine in addition to other more serious sanctions.
178. The Panel next considered whether conditions or undertakings should be imposed on Mr Taylor's membership or the Firm's registration. The Panel carefully considered the aggravating and mitigating factors and concluded that it could have no confidence that Mr Taylor and/or the Firm would comply with conditions or undertakings, even if suitable conditions or undertakings could be formulated. The Panel noted that Mr Taylor and the Firm had proved difficult to regulate in the past and, in the absence of insight, there was no indication that this had changed. In these circumstances the Panel took the view that conditions or undertakings would be not be appropriate or sufficient to address the wider public interest.
179. The Panel determined that it had no option in this case but to expel Mr Taylor from RICS. In reaching this conclusion it had regard in particular to his persistent failure to comply with the RICS Rules of Conduct for Members and his repeated failure to cooperate with RICS as his regulator. The Panel took the view that expulsion is justified and proportionate in this case in order to maintain public trust and confidence in the surveyors' profession.

180. Accordingly, the Panel orders Mr Taylor's expulsion from RICS membership. The Panel further orders that the registration of the Firm be removed for the same reasons and in light of the previous adverse disciplinary findings against it.

181. The Panel is satisfied that these sanctions are both appropriate and proportionate to protect the public, maintain confidence in the reputation of the profession and ensure proper standards of conduct are upheld.

Publication and Costs

Publication

182. Ms Sherlock referred the Panel to the RICS policy on publication.

183. The Panel accepted the Legal Assessor's advice that it is usual for decisions to be posted on the RICS website and published in Modus. The Panel was unable to identify any reason for departing from the normal practice in this case. Part of the role of the Panel is to uphold the reputation of the profession, and publication of its decisions is an essential part of that role.

184. The Panel orders that this decision is published on the RICS website and in Modus.

Costs

185. Ms Sherlock made an application for costs. The Panel carefully considered whether to make an award of costs. It was satisfied that the case had been properly brought, and that costs should be awarded otherwise the financial burden of bringing this case would fall on the profession as a whole. The Panel noted that Mr Taylor did not take up the opportunity to narrow the issues at an early stage of these proceedings which would have been likely to have reduced the preparation time that was required and possibly the costs of the hearing.

186. Ms Sherlock had provided a schedule of costs to Mr Taylor and the Firm in advance of the hearing in the sum of £35,697.50. At the hearing she amended the costs sought to

reflect the lower than anticipated number of hours of attendance/advocacy from 35 to 11 hours, and the cost of each hearing day to £1,770 because the hearing had been held in Birmingham with lower costs associated. In proceeding to carry out its costs calculation, the Panel used the reduced figure of £28,697.50 as a starting point.

187. The Panel concluded that the costs should be further reduced by £1,000 to reflect the fact that a number of the charges were not found proved and by a further £1,000 as charge 1 against the Firm related to conduct that took place when the Firm was not registered. The Panel also concluded that it was appropriate to reduce the costs associated with drafting the case summary and for preparing the hearing bundle by 50%, as the time spent was considered to be high. These deductions amounted to £5,700 and reduced the £28,697.50 starting point to £22,997.50. At the hearing the Panel therefore ordered that Mr Taylor and the Firm should pay RICS' costs of £23,000. It further ordered that Mr Taylor and the Firm should be jointly and severally liable for payment of those costs. In determining that Mr Taylor and/or the Firm should pay RICS' costs, the Panel took into account the fact that they would be able to enter into negotiations with RICS to devise an acceptable payment plan.

188. Following the conclusion of the hearing, the Panel identified that there had been an error in the recalculation of the costs to take account of the reduced hours of attendance/advocacy and the less expensive hearing venue. The correct starting point should have been £26,497.50 not £28,697.50. The reduction of £5,700 made by the Panel should therefore have resulted in a figure of £20,797.50 not £22,997.50. Accordingly the Panel orders that Mr Taylor and the Firm pay RICS costs in the sum of £20,700 and that they shall be jointly and severally liable for payment of those costs.

Right of Appeal

189. Mr Taylor and/or the Firm have 28 days to appeal against this decision in accordance with Rules 59 of the RICS Disciplinary, Registration and Appeal Panel Rules 2009.

190. In accordance with Rule 60 of the RICS Disciplinary, Registration and Appeal Panel Rules 2009 the Honorary Secretary has 28 days from the service of the notification of this decision to require a review of this decision.