



ROYAL INSTITUTION OF CHARTERED SURVEYORS

Appeal Panel Hearing

Case of:

RICS v Mr Nicholas Prinse [5040203] and Prinsegate Limited [763271]

On

Monday 17 February and Tuesday 18 February 2025

Remotely by Microsoft Teams

Panel

Sally Ruthen (Lay Chair)

Miriam Karp (Lay Member)

Jennifer Hobart (Surveyor Member)

Legal Adviser

Rebecca Vanstone

RICS Representative

Ben Rich, Counsel

Member/Firm's Representative

Nicholas Prinse (in person and unrepresented)

Tribunal Executive

Adeel Qureshi

Background

1. Mr Prinse has been a member of RICS since June 2014 and is the sole principal of Prinsegate Developments Ltd which traded as Prinsegate Chartered Surveyors. As of the date of the hearing before the Disciplinary Panel, the Firm was in administration.
2. Concerns were raised with RICS by members of the public in relation to Level 3 building surveys carried out by the Firm. RICS's case was that a Level 3 Building Survey had to be undertaken by a member of RICS, namely a FRICS or MRICS or an Assoc RICS. RICS's contention was that the Firm, between March 2021 and June 2023, routinely used non-members who were acting alone. In addition, concerns were received from former employees of the Firm. These concerned working practices at the Firm including the use of inexperienced and unqualified staff to carry out the surveys. There was an allegation regarding acting dishonestly in relation to one staff member and acting without integrity by seeking to dissuade two clients from approaching an ADR provider. Further, there was a complaint from the owner of the company of which Mr Prinse bought the assets, but not the shares, that he had been responsible for dishonestly making changes to the company's registration at Companies House.
3. Mr Prinse denied any wrongdoing. The matter was heard before a Disciplinary Panel on 09 – 17 September 2024. Mr Prinse submitted a bundle of documents and submissions of 2266 pages setting out his contentions.
4. Prior to RICS opening the case, Mr Prinse made a preliminary application for the matter to be dismissed on the basis that RICS did not have the jurisdiction to hear the allegations as the resignation of the Standards and Regulation Board ('the SRB') in 2023 meant that RICS was unable to exercise its regulatory function. In support of his application, Mr Prinse informed the Panel that he had sought disclosure as to the background to the resignation of the SRB, which he had not been provided with. Mr Prinse said it would be grossly unfair for the hearing to continue and that RICS could not police its members given it had not passed its own auditing requirements. RICS opposed this application and invited the Disciplinary Panel to proceed. Mr Rich, on behalf of RICS, said that the resignation of the SRB did not invalidate the regulatory process and there was no evidence before the Panel to suggest that a fair trial could not take place. Mr Rich said that it was not realistic to suggest that material relevant to Mr Prinse's case or material that would undermine RICS's case had not been disclosed.

5. Having received advice from the legal advisor, the Disciplinary Panel asked itself whether RICS was operating without a valid SRB and whether there was any information before it that invalidated the process of RICS holding a disciplinary hearing under the Regulatory Tribunal Rules. It asked whether a fair trial of the allegations was possible. The Disciplinary Panel was satisfied that at all material times there was a functioning SRB and that the resignation of the SRB in 2023 did not invalidate RICS's regulatory function. It was satisfied that the Panel was properly appointed and that Mr Prinse, holding RICS membership, was subject to regulation by RICS. It accepted the submission made on behalf of RICS that there was no obligation to provide disclosure of the information Mr Prinse had sought. The Disciplinary Panel concluded that a fair hearing of the allegations was possible. It therefore rejected the application by Mr Prinse.
6. RICS called oral evidence from Charles Miskelly (allegation 4), Sophie Botwood (allegation 7), Andrew Peartree (allegation 8 and 9), Robert White MRICS (allegations 11, 12, 13, 14), Stephen Parris FRICS (allegations 1, 2, 3), Sinead George (Allegations 1, 2, 3, 8 and 9), and Jemma Redpath (allegations 1, 2, 3, 7, 11, 12, 13 and 14).
7. There was an agreed statement of facts which dealt with the evidence contained in the witness statements of Sheila Try and Anna Bowen, which avoided them having to give oral evidence.
8. The Disciplinary Panel received the expert evidence of Mr Jude FRICS contained in his written report dated 21 November 2023 as well as his oral evidence.
9. Mr Prinse did not give oral evidence but submitted documentary evidence and made oral closing submissions.
10. The Disciplinary Panel did not draw any adverse inferences from Mr Prinse choosing not to give evidence and whilst it found apparent inconsistencies between Mr Prinse's written and oral submissions, they noted that he was a litigant in person and concluded that the fairest way to approach Mr Prinse's response to the allegations was that he put RICS to strict proof with regard to every element of every charge.

11. There had been no previous findings against Mr Prinse and the Disciplinary Panel accepted that it was relevant to take his good character into account.
12. The Disciplinary Panel found the following charges had been proved against Mr Prinse:
 - Charges 1, 2, 3, 4, 7, 8, 10, 11, and 13 (in the written decision the Panel said the allegation was proved in first sentence and then said 'not proved' at the end, however the reasoning makes it clear that allegation 13 was proved and this was subsequently clarified on the record, as reflected within the transcripts of the hearing).
13. It found only charge 15 proved against the Firm.
14. The Disciplinary Panel found that the following allegations were found not proved:
 - a. 5
 - b. 6
 - c. 9 (which was an alternative to allegation 8 and as allegation 8 was proved, allegation 9 was not considered)
 - d. 12 (which was an alternative to allegation 11 and as allegation 11 was proved, allegation 12 was not considered)
 - e. 14 (which was an alternative to allegation 13 and as allegation 13 was proved, allegation 14 was not considered)
 - f. 16 and
 - g. 17.
15. The latter two of these charges were against the Firm, and the remaining charges were against Mr Prinse.
16. The Disciplinary Panel found as a fact that:
 - A Level 3 Homebuyers Survey, which is defined in the RICS Professional Statement Home Survey Standard, must be undertaken by a member who is FRICS, or an MRICS or an AssocRICS.

- That the physical attendance of a qualified member was required at the inspection, and that a level 3 survey could not be carried out 'remotely'.
- Mr Prinse's subsequent checking of reports could not and did not rectify the failure of using non-qualified surveyors to physically undertake the surveys. Even if Mr Prinse had looked at every survey, this did not discharge the obligation for a member to conduct the survey by physically attending and inspecting the premises in person (and further, that this amounted to a lack of integrity).
- The omissions in respect of the reports of Upper Norton Barn, 17 Reservoir Road and 26 School Hill (excluding the inaccurate date of the property in respect of the latter) were significant and were fundamental to the overall quality of the reports. It further found that these rendered the reports below the standard expected of a reasonably competent surveyor.

17. The Disciplinary Panel further found that Mr Prinse had:

- Known that the Firm routinely used non-chartered surveyors to carry out Level 3 surveys.
- Acted without integrity when issuing terms and conditions to the effect that chartered surveyors would be used.
- Allowed the Firm to issue Level 3 survey reports in his name when he had not personally written the reports.
- Sent a letter to RICS asserting that he had been at 26 School Hill as part of the survey undertaken on 25 October 2022, when he had not and when he knew he had not.
- Suggested the Firm had suffered a financial loss, following a colleague's non-attendance at a property on 28 March 2022, when it had not, and when Mr Prinse knew it had not.
- Behaved without integrity, acted unprofessionally and failed to treat clients with respect when the Firm sent a letter attempting to dissuade a client from approaching an ADR provider, and that Mr Prinse 'should have known' that it was mandatory for redress to be provided free of charge.
- Signed TM01 and AD01 forms on or about 22 June 2023 in an attempt to take control of Southwest Housesurveys Limited, despite not having the authority to make the applications, and despite knowing that he did not have that authority.

18. The Disciplinary Panel also found that the Firm had routinely used non-chartered surveyors to carry out Level 3 surveys.
19. Having made the findings as set out above, the Disciplinary Panel found both Mr Prinse and the Firm liable to disciplinary action. It was satisfied that the conduct of Mr Prinse amounted to breaches of his professional obligations that were wide ranging and serious and committed over a prolonged period. It held that the findings of dishonesty and lack of integrity were breaches of fundamental tenets of the profession and were therefore very serious. The Disciplinary Panel said it had 'no doubt' that the conduct proved in each of the allegations was individually and collectively sufficiently serious to render Mr Prinse liable to disciplinary action.
20. The Disciplinary Panel was further satisfied that the proven failure of the Firm to ensure that its professional work services were provided by competent individuals, as established in Allegation 15, amounted to a serious breach of the rules committed over a prolonged period, that undermined the reputation of the profession and reached the threshold for liability to disciplinary action.
21. The Disciplinary Panel went on to consider the possible sanctions available to it in ascending order of seriousness.
22. The Disciplinary Panel assessed the aggravating features of the case as follows:
 - Proved conduct involved multiple allegations of dishonesty and lack of integrity
 - The Home Buyer Survey failings were repeated and took place over a prolonged period
 - Multiple clients not given what they had paid for over a prolonged period
 - Repeated breaches of a mandatory RICS Standard
 - Whilst there was no evidence that the conduct caused clients actual loss there was the potential for financial loss for homeowners from the conduct
 - No evidence of insight or remorse
 - This was pre-planned, deliberate and repeated dishonesty
 - The conduct breached the trust public placed in the profession and undermined the reputation of the profession
23. The Disciplinary Panel identified the following mitigating factors:
 - Mr Prinse's previous good character with no disciplinary record

24. Having considered and dismissed all the other sanctions available to it, the Disciplinary Panel concluded that Mr Prinse should be expelled from the membership of the RICS, and the Firm should be removed from registration with the RICS, stating:

'The Panel was mindful of the factors set out in paragraph 7 of the sanctions policy for 'considering the seriousness of the breach and possible sanction' and noted that Mr Prinse's conduct involved many of the factors listed including, in particular, that it was dishonest, benefited him and the Firm, and in relation to the surveys, was repeated over a prolonged period of time. ... [other] sanctions were insufficient to uphold standards given what the Panel considered was Mr Prinse's cavalier disregard of the Rules over a prolonged period. The Panel was mindful that dishonesty in a professional lay at the top end of the spectrum of misconduct and was satisfied in the circumstances that the proven conduct by Mr Prinse was fundamentally incompatible with continued membership of RICS. ... only expulsion of Mr Prinse from RICS was sufficient to mark the seriousness to the profession and the public and was the appropriate and proportionate sanction. ... the Panel was satisfied ... that the only proportionate and appropriate sanction was to remove the Firm's registration.'

25. The Disciplinary Panel imposed an order of expulsion. At the same time the firm, was removed from the register. Both the firm and Mr Prinse were ordered to pay the costs of the RICS in the sum of £40,000.
26. By way of an application notice dated 21 October 2024 Mr Prinse lodged an appeal against the findings. His grounds of appeal read as follows:

'All 'proven' allegations were in fact 'unproven' as there was no proof to substantiate them. Much of the evidence supplied was misunderstood or simply not taken into sufficient consideration by the panel. There is also some new evidence I am able to supply in response to the panel feedback. RICS did not have the authority to issue disciplinary measures due to having failed to pass their own audit by SRB in 2023.'

27. RICS response to the grounds of appeal was dated 09 January 2025.

Preliminary matters

28. Ahead of the appeal hearing commencing, the Panel received written submissions from Mr Prinse, a revised staff list, an onboarding plan, valuation list and a building survey list. These were all documents which Mr Prinse had intended the Disciplinary Panel to have sight of, but it was not clear whether it had considered those documents because the material had been provided after the Panel had gone into camera to deliberate on the findings of fact. The material was provided to the Appeal Panel with the agreement of RICS. Nonetheless, the Panel was reminded by the legal advisor that the Chair was required to give leave under rule 163 of the Regulatory Tribunal Rules v2, effective from 02 February 2022, to allow for the admission of late evidence (to the extent that this was late evidence). In the circumstances of this material being provided, the Appeal Panel was satisfied that it should have been provided to the Disciplinary Panel given it was in existence at the time. Had it not been considered by the Disciplinary Panel because it was already in retirement when the material was provided, that would not have been satisfactory, and would amount to exceptional circumstances that required the evidence to be admitted before the Appeal Panel. Accordingly, leave to admit this additional evidence (to the extent that leave was required), was given.
29. On the morning of the appeal hearing, Mr Prinse made an application for further evidence to be considered by the Panel. This consisted of two expert reports, one from a chartered surveyor, and one from a graphologist. Both were dated after the Disciplinary Panel hearing had taken place. RICS had been provided with disclosure of these reports on or around 20 January 2024, which complied with the requirement to serve the documents at least 28 days before the hearing, as provided for by the Rules. RICS had provided a written response opposing the application. In response to that, Mr Prinse had served full written submissions totalling 12 pages, setting out the basis upon which he was inviting the Appeal Panel to admit this late evidence.
30. Mr Prinse relied on these written submissions. He submitted that it was not reasonable or proportionate to have expected him to obtain expert evidence in response to every piece of evidence relied upon by RICS ahead of the hearing before the Disciplinary Panel. Mr Prinse reminded the Appeal Panel that he was, and remains, unrepresented and said that these documents had been obtained in response to points arising during the original hearing. Mr Prinse said that the expert reports were material to the findings made by the Disciplinary Panel,

specifically in respect of allegations 4, 11 and 13. He said it would be unfair and unjust to refuse to give leave in these circumstances.

31. In response, Mr Rich said that the application amounted to Mr Prinse trying to have a 'second bite of the cherry'. He told the Appeal Panel that it was misconceived for Mr Prinse to seek to admit this new evidence in response to what the witnesses said under cross-examination and the subsequent findings of the Disciplinary Panel, and that this evidence should have been provided ahead of the original hearing. He referred the Appeal Panel to a letter sent to Mr Prinse by RICS on 14 May 2024 where Mr Prinse was reminded that he was at liberty to seek his own expert evidence in response to the evidence served by RICS. Mr Rich accepted that whilst the Appeal Panel was entitled to take a flexible approach, the threshold for admitting new evidence for an appeal hearing was deliberately high.
32. The Appeal Panel received and accepted the advice of its legal advisor that *Ladd v Marshall* 1954 1 WLR 1489 as more recently considered in *General Medical Council v Adeogba*; *General Medical Council v Visvardis* [2016] EWCA Civ 162, [2016] 1 WLR 3867 remained good law.
33. The Appeal Panel noted that the usual position was that evidence which was not before a lower court or tribunal will not usually be admitted unless: first, it can be shown that the evidence could not have been obtained with reasonable diligence for use at the original hearing; second, if admitted it would probably have an important influence on the result of the case, though it need not be decisive; third, that the evidence must be apparently credible, though it need not be incontrovertible.
34. The Appeal Panel considered that the expert reports that Mr Prinse sought to rely upon could have reasonably been obtained prior to the hearing before the Disciplinary Panel and that no good reason had been advanced as to why they had not been. The Appeal Panel considered that the allegations drafted by RICS were specific and as that as a professional surveyor, Mr Prinse would have been able to identify the expert evidence he needed to provide in response, had he wished to challenge the conclusions of the expert surveyor instructed by RICS. The costs incurred in obtaining these reports ahead of time, does not amount to a good reason for not having done so. Similarly, had Mr Prinse wished to challenge that his signature was on the

forms referred to in allegations 11 and 13, this would have been clear to him before the Disciplinary Panel hearing.

35. The Appeal Panel did not identify any exceptional circumstances present that would cause it to depart from the usual considerations as set out above
36. The Panel therefore determined to refuse the late admission of this new evidence.
37. Even though the Appeal Panel did not consider that the first criteria had been met, it had concerns in any event as to whether the reports were capable of having an important influence on the result of the case. The report from the chartered surveyor purported to go to allegation 4. However, the report was extremely brief, the nature of the instructions was not identified, and it was unclear whether the author of the report knew the purpose of which the report was being used for. It is not clear whether the author of the report was aware of the existence of Mr Jude's report. The Appeal Panel therefore considered that very limited weight would be able to be placed on such a report.
38. The report from the graphologist purported to go to allegations 11 and 13. The Panel looked carefully at the wording of these allegations and noted that it was pleaded in the alternative, that Mr Prinse either signed the form or 'caused' the form to be completed and signed. RICS did not therefore need to prove that Mr Prinse himself signed the form, for this allegation to be made out. The Appeal Panel noted that the Disciplinary Panel had, in fact, found that Mr Prinse signed the form, rather than that he had 'caused' the form to be signed. However, in light of the wording of the allegation, the Appeal Panel was of the view that the graphologist's report would not have an important influence on the result of the case as, even if it was accepted at face value, it was unlikely to be capable of altering the conclusion that allegations 11 and 13 were made out, even if they were found proved on the basis that Mr Prinse had 'caused' the completion of the form, rather than that he had signed it himself. Finally, the Appeal Panel gave consideration to the notion that even if the findings with regards allegations 11 and 13 were disturbed, there were other proven allegations of dishonesty which were serious and which would require the Appeal Panel to interfere with, before the graphologist's report could have any influence on the overall result of the case.

39. The Appeal Panel accepted that if it was to allow the appeal in respect of some of the allegations, this may change the landscape and the gravamen of the case overall may be reduced. It therefore determined that whilst the evidence would not be admitted, it would keep the decision under review. If, when determining the substantive appeal, it became clear that it was required to disturb some of the Disciplinary Panel's findings with respect to other allegations, it would invite further submissions in respect of the admission of this new evidence. This approach had been agreed between the parties.

Grounds of Appeal

40. The detail contained within the notice of appeal was limited. Mr Rich had, in his written response, broken this down into four separate grounds. The parties agreed that this was an appropriate way to approach matters and that these four grounds encapsulated Mr Prinse's challenge to the findings of the Disciplinary Panel.
41. The four grounds of appeal were:
- a. *All 'proven' allegations were in fact, 'unproven' as there was no proof to substantiate them.*
 - b. *Much of the evidence supplied was misunderstood or simply not taken into sufficient consideration by the panel.*
 - c. *There is also some new evidence I am able to supply in response to the panel feedback.*
 - d. *RICS did not have the authority to issue disciplinary measures due to having failed to pass their own audit by SRB in 2023.*

42. Mr Prinse also confirmed that he challenged the Disciplinary Panel's findings regarding sanction.

Submissions by the Appellant Mr Prinse / the Firm

43. Mr Prinse made oral submissions to the Appeal Panel which further developed his grounds of appeal; he relied in the main, upon the written submissions that had been submitted to the Disciplinary Panel, as his arguments for why the Disciplinary Panel had fallen into error.

Grounds one and two, as they had been identified above, were dealt with, for the purposes of Mr Prinse's oral submissions, together. Mr Prinse said there was a lack of evidence submitted by RICS and that he had submitted evidence to the contrary. He said that the Disciplinary Panel had drawn impermissible inferences.

44. Mr Prinse said that a number of the witnesses in the case had backtracked from their statements, that they contradicted themselves and made a number of concessions. He said their credibility was undermined. Mr Prinse was concerned about the Disciplinary Panel's reliance on the evidence of a witness who had previously been determined as being 'disingenuous' by a Judge in another arena. He referred to the fact that there were disgruntled clients and ex-members of staff as witnesses, but that this was insufficient evidence for the Disciplinary Panel to find the allegations proved.
45. In oral submissions, Mr Prinse further submitted that the Disciplinary Panel did not apply the correct burden and standard of proof. He said that RICS had failed to discharge its burden.
46. Mr Prinse also told the Appeal Panel that dishonesty had not been made out. He said that neither RICS nor the Disciplinary Panel had applied the appropriate test for dishonesty. Mr Prinse submitted that whilst the test for dishonesty had been included within the Panel's determination, it had not been applied to the facts of the case.
47. No submissions were made in respect of ground three, given the Appeal Panel's refusal to admit the new evidence.
48. Regarding ground four, Mr Prinse relied on the submissions he had made before the Disciplinary Panel, both orally and in writing, and told the Appeal Panel that he could not see how RICS had the appropriate authority to conduct these proceedings and regulate its members when it was unable to pass its own audit.
49. Mr Prinse highlighted to the Appeal Panel that there are recognised exceptional circumstances whereby the appeal courts will interfere with primary findings of fact, and that those should apply in this case.

50. Regarding sanction, Mr Prinse said that the sanction was unwarranted and unduly harsh, and provided no benefit to the public interest. He said there had been no professional misconduct by him or his Firm and he urged the Appeal Panel to dismiss the sanction imposed.

Submissions by the RICS Presenting Officer

51. Mr Rich, on behalf of the RICS, referred the Appeal Panel to his written submissions which had been provided as part of the Appeal Bundle. He told the Appeal Panel that his own submissions were general as he took the view that Mr Prinse was making wide assertions without any specific detail. He invited the Appeal Panel to exercise caution when considering general statements as to the inadequacy of the Disciplinary Panel's decision making.
52. Mr Rich disputed any suggestion that the Disciplinary Panel had either reversed the burden of proof, or not properly applied the test for dishonesty. He said that neither of these assertions were made out on the face of the Disciplinary Panel's written determination.
53. Mr Rich told the Appeal Panel that it was being asked to undertake the most difficult task of setting aside findings of primary fact by a Disciplinary Panel who had heard and seen the witness evidence. He reminded the Appeal Panel that Mr Prinse had chosen not to give evidence and whilst the Disciplinary Panel had not drawn an adverse inference against him in respect of this, Mr Prinse's decision meant he was not asked any questions about why there are discrepancies between the documentary evidence and his oral submissions.
54. Mr Rich submitted that the Disciplinary Panel carefully considered the evidence of the witnesses and found them to be credible, with their evidence being bolstered by consistency with the documentary evidence.
55. Regarding ground four, Mr Rich referred the Appeal Panel to his original submissions as contained within the transcript of the previous hearing.
56. When considering sanction, Mr Rich submitted that the findings made by the Disciplinary Panel were serious and that each of the dishonesty allegations carried with it a risk of expulsion.

When there were multiple findings, as in this case, expulsion could not reasonably be described as excessive. He referred to the seriousness of the allegations in the round and that the conduct described undermined the integrity of the regulatory process. He said the sanction was 'well within' the bounds of reasonableness.

Panel's Decision

57. The Appeal Panel carefully considered all the written material with which it had been provided including: the written submissions by Mr Prinse and on behalf of RICS, the transcripts of the Disciplinary Panel hearing, the evidence bundles that were before the Disciplinary Panel (both from RICS and from Mr Prinse), and the additional evidence that it had admitted for the purposes of this appeal hearing. Further, it took full account of the oral submissions made by Mr Prinse and by Mr Rich during this hearing. It accepted the advice of the legal advisor.
58. The Appeal Panel first determined that the approach it should adopt to the appeal was as follows. It noted that in accordance with Rule 162 of the Rules it was to consider the decision of the Disciplinary Panel having regard to:
 - a. *The evidence presented to the Disciplinary Panel*
 - b. *Any representations made to the Disciplinary Panel ... including any transcript of any hearing*
 - c. *The Appellant's grounds of appeal*
 - d. *Any representations that the parties may wish to make to the Appeal Panel regarding the findings and / or Regulatory Sanction imposed by the Disciplinary Panel.*
59. The Appeal Panel accepted the advice of the legal advisor that the required test was whether the Disciplinary Panel's decision was wrong, in that its findings were not justified by the evidence before it (or as regards sanction, was outside of the range of what was reasonable). It was advised in accordance with *GMC v Meadows* [2006] EWCA Civ 1390 at paragraphs 125 – 127.
60. The appeal was a review, rather than a rehearing of the case before the Disciplinary Panel. The Appeal Panel reminded itself to exercise particular restraint in interfering with findings of

fact where the original tribunal had the benefit of seeing, hearing and evaluating the witnesses' credibility and that it should only interfere with those findings if the original tribunal could not properly and reasonably have decided those facts in that way.

61. The Appeal Panel was reminded that under Rule 165 of the Rules, the burden is on Mr Prinse / the Firm, to satisfy the Appeal Panel that the finding or findings made, or the Regulatory Sanction imposed by the Disciplinary Panel was 'wrong'. This would be, whether it was outside of the range of what was reasonable (*Yeong v GMC* [2009] EWHC 1923 (Admin)).
62. The Appeal Panel accepted that an appeal panel exercises a secondary judgment, and that it must give respect to the decisions of a specialist disciplinary tribunal in particular where sanction is concerned (*Fatnani and Raschid v General Medical Council* [2007] EWCA Civ 46).
63. The Appeal Panel had in mind that a panel is required only to provide sufficient reasons for a party to know why he has won or lost, and that it is not required to identify every factor weighed in its appraisal of the evidence, but rather those matters which were vital to its conclusion (*English v Emery Reimbold* [2002] 1 WLR 2409).
64. The Appeal Panel was mindful that there was new evidence before it which had perhaps not been seen by the Disciplinary Panel (it remained unclear). This consisted of Mr Prinse's written submissions (which had also been given orally), a revised staff list, an onboarding plan, valuation list and a building survey list. The Appeal Panel carefully considered this evidence as part of its review of the findings of the Disciplinary Panel.
65. For the reasons set out below, the Appeal Panel could find no basis on which to disturb the findings of the Disciplinary Panel or its decision on sanction in this case.

Ground one – no proof to substantiate the allegations and Ground two – misunderstood or insufficiently considered evidence

66. Given the way the submissions were developed orally, the Appeal Panel determined to deal with these two grounds together. Mr Prinse had not specifically addressed the Appeal Panel on the individual allegations when referring to the lack of evidence before the Disciplinary

Panel or how it may have misunderstood the evidence. The Appeal Panel therefore determined to look at the findings of each of the proven allegations, with the key questions raised by Mr Prinse, in mind.

67. The Appeal Panel considered only those allegations found proved. It noted that the Disciplinary Panel had rejected large parts of the expert evidence which resulted in several of the charges being found not proved.
68. At the outset, the Appeal Panel noted that the Disciplinary Panel had reminded itself (paragraph 18 of the determination) that the burden of proving the case was on RICS and the relevant standard of proof to be applied.
69. The Appeal Panel also observed that the Disciplinary Panel had noted that there was a need for cogent evidence to reach the civil standard of proof in cases of dishonesty.
70. The Appeal Panel noted that Mr Prinse had referred in his written submissions to the need to consider the fact that his work was completed, at least in part, during the Covid pandemic. The Appeal Panel further noted the guidance issued by RICS and contained within the bundle of evidence submitted by Mr Prinse for the Disciplinary Panel hearing (bundle 3, p.349, paragraph 2) which stated that condition surveys required physical attendance at the property, even during the pandemic.

Allegation 1

71. The Disciplinary Panel referenced the fact that the RICS Professional Statement Home Survey Standard paragraph 2.2 made it clear that a Level 3 Homebuyers Survey could only be conducted by a 'qualified' member. The Disciplinary Panel considered that this meant a FRICS or a MRICS, who are chartered, or an AssocRICS, who would be qualified to undertake such surveys. The Disciplinary Panel considered that this was a mandatory standard to adhere to, given the language used was 'must' (and included within the Standard in bold text).
72. The Disciplinary Panel referred to the oral evidence of the witnesses being 'robustly tested' by Mr Prinse but that *their evidence remained unshaken by the cross examination*. The Disciplinary Panel, who saw and heard these witnesses were entitled to find, as it did, that these witnesses provided credible evidence. The Appeal Panel has not seen anything within

the documentary evidence that undermines these witnesses to the extent that the Disciplinary Panel could not have relied upon them.

73. Mr Prinse had accepted that 'accredited' surveyors attended the surveys who may not have had the required qualification and that the 'second check' of the report was undertaken by an individual who may or may not have been a member of RICS. Mr Prinse told the Disciplinary Panel that he, as an MRICS, signed off every survey. This evidence was accepted by the Disciplinary Panel, but it concluded that this did not rectify the failure of using non-qualified surveyors to physically undertake the survey.
74. In the Appeal Panel's view, the Disciplinary Panel was entitled to reach this conclusion. The Disciplinary Panel had further considered Appendix A of the Standard and concluded that it required the physical attendance of a qualified member to be physically present at the inspection. The documentary evidence before the Disciplinary Panel substantiated this allegation, and there is nothing within the determination to suggest that the Disciplinary Panel did not properly understand the evidence or the allegation before it.

Allegation 2

75. The Disciplinary Panel relied upon Mr Prinse's own terms and conditions which defined 'surveyor' as being a 'chartered surveyor'. Given its findings that chartered surveyors did not always carry out the inspection, it was entitled to find that Mr Prinse lacked integrity when suggesting otherwise. In the view of the Appeal Panel it was a reasonable conclusion for the Disciplinary Panel to reach, that this conduct was contrary to a RICS mandatory requirement, and unworthy of a professional. In the Appeal Panel's view Mr Prinse has not satisfied it that the Disciplinary Panel fell into error.

Allegation 3

76. The Disciplinary Panel considered that even if Mr Prinse did check every report (as he had contended he did), that he lacked integrity in allowing the Firm to issue these reports in his name when they had not been expressly written by him. When reaching this conclusion, the Disciplinary Panel referred to having examined a number of the Firm's reports where it was recorded that the survey was 'assisted by' one individual (building surveyor), 'checked by' another (building surveyor), and then 'completed by' Mr Prinse (MRICS).

77. On Mr Prinse's own account, he had not written the reports. The Disciplinary Panel had concluded that this reference to 'completed by', given Mr Prinse was the only MRICS member, suggested that Mr Prinse was the author of the report. It further concluded that as this was a false impression, it was conduct falling short of what was expected of Mr Prinse of a professional and thereby amounted to a lack of integrity. That was, in the Appeal Panel's view, a reasonable conclusion for the Disciplinary Panel to reach considering the evidence it had examined. It could not identify anything within the decision on this allegation which suggested the Disciplinary Panel had not properly understood the evidence or insufficiently considered Mr Prinse's submissions.

Allegation 4

78. Mr Prinse had said that any errors within the reports were minor and / or typographical in nature. The Disciplinary Panel had sight of these reports and considered them in detail, setting out within the determination, the omissions identified in the report by Mr Jude. The Disciplinary Panel, having seen and heard the evidence of Mr Jude, accepted it. Having accepted that evidence, it concluded that the failings and omissions were fundamental to the overall quality of the report. The Appeal Panel was of the view that this was a reasonable conclusion in light of the acceptance of Mr Jude's evidence. The Appeal Panel could not identify anything within the evidence or the submissions, that undermined Mr Jude's evidence such that the Disciplinary Panel were wrong to accept it on this point. It therefore concluded that there was no evidence that the Disciplinary Panel had either misunderstood the evidence, insufficiently considered it, or had found proved an allegation which was not substantiated by the evidence.

Allegation 7

79. The Disciplinary Panel found this allegation proved on the basis of the evidence of Ms Botwood, a witness from whom it had seen and heard live evidence. The Disciplinary Panel had considered this witness to be credible and accurate. The Appeal Panel has not seen anything within the documentary evidence that could reasonably be capable of undermining this conclusion. The Disciplinary Panel referred to Ms Botwood's evidence being detailed and consistent, in reaching its conclusion. It recognises that Mr Prinse does not agree with the Disciplinary Panel's assessment of the witness but notes that when he challenged her evidence, she remained resolute that he had not attended the property on the day in question. That was her evidence, and Mr Prinse did not give evidence himself, to allow a contrary assertion to be challenged.

80. Having determined that Mr Prinse was not at the property on the date in question, the Disciplinary Panel considered that the letter sent by him did, to the contrary, suggest that he had attended the property. The Disciplinary Panel referred to its specific consideration of Mr Prinse's knowledge and belief as to the facts before considering whether, objectively, this was dishonest. It reached the conclusion that it was. The Appeal Panel considered that the Disciplinary Panel was entitled to reach this conclusion from the evidence before it, and that it had properly applied the legal test for dishonesty when doing so.

Allegation 8

81. Whilst the Appeal Panel noted Mr Prinse's dissatisfaction with the Disciplinary Panel placing any weight on the evidence of Mr Peartree, this allegation was founded on the Disciplinary Panel's acceptance of the evidence of Ms George. Mr Prinse did not deny that Ms George had sent the email to Mr Peartree at his request; the Disciplinary Panel's task was to assess Mr Prinse's state of mind at the time the email was sent.
82. The Appeal Panel noted that the Disciplinary Panel had set out what the objective position was, and what it considered, subjectively, Mr Prinse's state of mind to be. It then considered whether this conduct was dishonest according to the standards of ordinary decent people.
83. The Appeal Panel noted that the Disciplinary Panel had set out what the objective position was, and what it considered, subjectively, Mr Prinse's state of mind to be. It then considered whether this conduct was dishonest according to the standards of ordinary decent people.
84. The Appeal Panel could not identify any error in the decision making of the Disciplinary Panel in respect of this allegation. It was entitled to reach the conclusions it did based on the evidence before it, and had applied the correct legal test.

Allegation 10

85. The Disciplinary Panel considered the unchallenged documentary evidence which was the letter from the Firm dated 11 January 2023, to Mr and Mrs Pereira, and the mandatory standard 12.4 of the Escalation section of the standards. The Disciplinary Panel interpreted this standard as mandating that redress should be provided for free. In the Appeal Panel's view that was a reasonable interpretation to make.

86. The Disciplinary Panel then considered the purpose of the letter. It was satisfied that on an ordinary reading, it was an attempt to dissuade the clients from approaching an ADR provided. It was satisfied that Mr Prinse, as principal of the Firm, ought to have known this (the Appeal Panel notes that the Disciplinary Panel did not find that he did know this, but simply that he ought to have known). The Disciplinary Panel then considered that this was unprofessional and amounted to a lack of integrity. This was, in the Appeal Panel's view, a reasonable conclusion to reach and does not demonstrate any misunderstanding or insufficient consideration of the evidence.

Allegation 11

87. The Appeal Panel considered Mr White's evidence at p.440 of the hearing bundle and the transcript of his oral evidence. It could not identify anything that would obviously undermine the Disciplinary Panel's conclusion that Mr White was a credible and reliable witness. The Appeal Panel had in mind that the Disciplinary Panel had the benefit of seeing this witness give evidence. It was entitled to conclude that it could rely upon this evidence.
88. Having determined that Mr White was credible, the Disciplinary Panel then inferred that it was Mr Prinse who signed the form as he was buying the company and needed control of it to use it as a vehicle for continuing his business. This was a reasonable inference for the Disciplinary Panel to draw, given his intention as set out in writing.
89. The Disciplinary Panel then considered what Mr Prinse knew when signing the form, before determining whether this was dishonest, objectively. This was the correct legal test.
90. The Appeal Panel could not identify anything within the reasoning of the Disciplinary Panel to suggest it had erred in reaching its conclusions.

Allegation 13

91. The Disciplinary Panel found that the facts as applied in allegation 11, applied to this allegation. The Disciplinary Panel again applied the legal test for dishonesty before finding the allegation proved. The Appeal Panel consider this was a reasonable conclusion for the Disciplinary Panel to reach.

92. It should be noted that whilst the Disciplinary Panel's reasoning makes clear it found this allegation proved, the outcome says 'not proved'. The Appeal Panel notes that this was clarified on the record after the findings of fact were announced and that the Chair of the Disciplinary Panel confirmed that this allegation had been proved. The Appeal Panel does not therefore identify any error in respect of the findings for this allegation.

Allegation 15

93. The Appeal Panel noted that the Disciplinary Panel had found this allegation proved on the basis it mirrored allegation 1 as Mr Prinse is the principal and sole owner of the Firm. The Appeal Panel concluded this was a reasonable conclusion for the Disciplinary Panel to have reached. It did not seek to interfere with these findings.

Ground three – new evidence

94. The Appeal Panel refused to admit the new evidence, namely, the two expert reports, and so did not consider the matter in light of these reports.

Ground four – Disciplinary Panel's lack of authority

95. The Appeal Panel considered whether it was wrong for the Disciplinary Panel to proceed with the case given, as contended by Mr Prinse, RICS did not have the authority to issue disciplinary measures. The Appeal Panel was not satisfied that this was evidenced before the Disciplinary Panel who concluded that there was always a functioning SRB, and that the resignation of the SRB in 2023 did not invalidate RICS's regulatory function. The Disciplinary Panel further considered that Mr Prinse was a member of RICS at the relevant time and was subject to regulation by RICS. This was a view that the Disciplinary Panel was entitled to reach, given the evidence and submissions before them. The key question, which was whether Mr Prinse could have a fair hearing, was considered and was plainly at the forefront of the Disciplinary Panel's mind when determining whether to proceed. In all the circumstances, the Appeal Panel was not satisfied that Mr Prinse had discharged the burden of demonstrating that the Disciplinary Panel was wrong in its decision on this preliminary application.

Sanction

96. Whilst Mr Prinse did not include in his appeal notice, any challenge to the sanction imposed by the Disciplinary Panel, the Appeal Panel was of the view that reviewing the sanction was part of its task when considering whether the Disciplinary Panel had erred in its decisions.
97. As regards the sanction imposed by the Disciplinary Panel, it had been satisfied that Mr Prinse's breaches of his professional obligations were wide ranging and serious, and committed over a prolonged period. It held that the findings of dishonesty and a lack of integrity were pre-planned, deliberate and repeated. There were multiple allegations of dishonesty found proved and the Disciplinary Panel found there was no evidence of insight or remorse. It noted that whilst there was no evidence that the conduct caused clients actual loss, that there was the potential for financial loss for homeowners from the conduct.
98. The Disciplinary Panel found that the conduct breached the trust the public placed in the profession and undermined the reputation of the profession. Further, it placed the dishonesty at the top end of the spectrum of misconduct.
99. Mr Prinse had made submissions at sanction stage simply to the effect that he could not accept any of the proposed sanctions. The Disciplinary Panel identified in mitigation that he was of previous good character with no prior disciplinary record. It weighed this against the aggravating factors it had identified, when arriving at its decision that nothing less than an order of expulsion would be proportionate. This was a sanction that was, in the Appeal Panel's view, plainly within the range of reasonable outcomes.
100. As demonstrated by the case law, even a single instance of dishonesty may justify an expulsion order. In this case, the dishonesty was prolonged, pre-planned and deliberate.
101. When arriving at its decision, the Disciplinary Panel had considered the other, lesser sanctions available first, but held that these would be insufficient to uphold standards given what it had considered was Mr Prinse's 'cavalier disregard' of the Rules over a prolonged period.
102. The Disciplinary Panel was satisfied for the same reasons that the only proportionate and appropriate sanction was to remove the Firm's registration. It considered the fact that Mr Prinse was the sole principal of the Firm. The conduct found proved was clearly serious and

removal of the Firm from the Register was clearly within the range of reasonable sanctions available to the Disciplinary Panel in the circumstances of this case.

103. The Disciplinary Panel had followed the Sanctions Policy and had considered proportionality. It had considered each of the available sanctions, starting from the least severe, before arriving at its conclusion that expulsion and removal from the register were the only sanctions which were sufficient to satisfy the public interest.
104. The Appeal Panel was of the view that the Disciplinary Panel had conducted its exercise on sanction appropriately. It could not identify any shortcomings in the Disciplinary Panel's consideration of the appropriate sanction or the factors it took into account. It identified the aggravating and mitigating factors and discounted other, lesser, sanctions on the basis that these were insufficient to protect the public and highlight the seriousness of the conduct found proved. This was a conclusion that the Disciplinary Panel was entitled to reach.
105. In light of all the material it had considered and the submissions it had received, the Appeal Panel concluded that it should dismiss this appeal. It was not persuaded, on balance, that any of the findings made by the Disciplinary Panel were wrong. Further, it was not satisfied that the sanctions of expulsion of Mr Prinse and removal from the register of the Firm, imposed by the Disciplinary Panel, were wrong.

Publication and Costs

Publication

106. The Panel considered the guidance as to publication of its decisions. The guidance provides that it is usual for the decisions of the Panel to be published on the RICS' website for a period of 12 months. The Panel sees no 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.

107. Mr Prinse 'rejected' the suggestion that the decision should be published but did not expand upon this submission. The Panel could not identify any reason why the usual policy should be departed from in this case.
108. The Panel therefore orders that this decision be published in accordance with the guidance.

Costs

109. RICS made an application for costs in the total sum of £13,580.00 for the appeal hearing, supported by a detailed schedule of costs. This had been served on Mr Prinse 24 hours in advance, as required by the Rules.
110. Mr Prinse opposed the application for costs. He did not provide any updated statement of means or evidence of current financial circumstances. He did not wish to provide any information orally to the Panel on this matter.
111. The Appeal Panel considered all of the circumstances. The Appeal Panel concluded that it was appropriate for Mr Prinse to pay the costs of this hearing, otherwise the full cost of these proceedings would fall on the profession as a whole. The Appeal Panel was therefore satisfied that it was just and reasonable to order that Mr Prinse pay RICS' costs of this hearing in the sum of £13,580.00. Together with the previous costs order made by the Disciplinary Panel, this totals £53,580.00. Absent any agreement to the contrary, those costs must be paid to the RICS within 28 days.