

## **Appeal Panel Hearing**

### **Case of**

**Ms Emma Walker FRICS [6600739]**

### **On**

Tuesday 9 July 2024

### **Held remotely by Teams**

RICS, 55 Colmore Row, Birmingham, B3 2AS

### **Panel**

Alexandra Marks CBE (Lay Chair)  
Rosalyn Hayles (Lay Member)  
Dr Stephen Moore FRICS (Surveyor Member)

### **Legal Adviser**

Peter Steel

### **Representatives for the parties**

Ben Rich of counsel represented RICS  
Emma Walker was not present and not represented

### **Hearings Officer**

Jae Berry

## Introduction

1. This is an appeal by Ms Walker under Rule 152 of the RICS Regulatory Tribunal Rules (Version 2 with effect from 2 February 2022) (“the Rules”). Ms Walker seeks to appeal the sanction of expulsion imposed on her by a Disciplinary Panel following a remote hearing between 5 and 8 February 2024. At the same hearing, her company, EW Estates Limited (“the Firm”) was removed from the Register and both it and Ms Walker were ordered to pay the costs of the RICS in the sum of £24,273. This appeal proceeded on the basis that Ms Walker was also appealing the sanction the Firm although this was not clear from her application for appeal dated 8 March 2024.
2. The charges found proved against Ms Walker and EW Estates Ltd were as follows:

**“Member:**

*1. On or about 21 February 2022, Emma Walker (‘the Member’) submitted a Senior Professional Assessment (‘SPA’) to RICS. The submitted SPA contained inaccurate information regarding the Member’s professional qualifications and/or work experience and she declared that she met the required eligibility conditions when she did not, causing her to be admitted as a Professional Member of RICS when she otherwise would not have been. In doing so, her conduct:*

*a) Was dishonest in that she knowingly misrepresented her qualifications and/or exaggerated her experience in order to deceive RICS.*

*b) Lacked integrity in that she misled RICS by providing information that she knew, or ought to have known, would be relied on by RICS, without taking sufficient care to ensure its accuracy.*

**Contrary to Rule 1 of the Rules of Conduct**

**Emma Walker is therefore liable to disciplinary action under RICS Bye-law 5.2.2(c)**

*2. On or about 9 November 2022, Emma Walker entered into a loan agreement with Lee Jones whereby Lee Jones lent her £25,000 to be used for the sole purpose of renovation works to Bentinck Villas. Emma Walker was dishonest in that:*

*a) She was not carrying out any renovation work at Bentinck Villas.*

**Contrary to Rule 1 of the Rules of Conduct**

**Emma Walker is therefore liable to disciplinary action under RICS Bye-law 5.2.2(c)**

4. Between 9 November 2022 and 31 January 2023, having received a loan of £25,000 from Lee Jones, Emma Walker acted without integrity by:

a) Using the money for a purpose other than that agreed with Lee Jones and stipulated in the loan agreement.

**Contrary to Rule 1 of the Rules of Conduct**

**Emma Walker is therefore liable to disciplinary action under RICS Bye-law 5.2.2(c)**

5. Between 1 July 2022 and 14 December 2022, Emma Walker, in her capacity as director of EW Estates Ltd (the Firm), failed to comply with her professional obligations in that she did not ensure that all previous and current professional work was covered by adequate and appropriate professional indemnity cover.

**Contrary to Rule 1 of the Rules of Conduct**

**Emma Walker is therefore liable to disciplinary action under RICS Bye-law 5.2.2(c)**

6. Between 15 December 2022 and 19 May 2023, Emma Walker, in her capacity as director of EW Estates Ltd (the Firm), failed to comply with her professional obligations in that she did not ensure that all previous and current professional work was covered by adequate and appropriate professional indemnity cover.

**Contrary to Rule 1 of the Rules of Conduct**

**Emma Walker is therefore liable to disciplinary action under RICS Bye-law 5.2.2(c)**

7. Between 1 April 2022 and 19 May 2023, Emma Walker, in her capacity as director of EW Estates Ltd (the Firm), failed to ensure that services were provided by competent individuals who have the necessary expertise in that she caused or permitted one or more non-qualified surveyors to conduct building inspections and reports without adequate supervision.

## **Contrary to Rule 2 of the Rules of Conduct**

### **Emma Walker is therefore liable to disciplinary action under RICS Bye-law 5.2.2(c)**

8. *Between 7 December 2022 and 22 February 2023, Emma Walker, in her capacity as director of EW Estates Ltd (the Firm), failed in her duty to manage the Firm's professional finances responsibly in that:*

*a) Cheque 001 issued in the sum of £7,200 from the Firm's Lloyds Bank Business Account (account no ending 3860) was not honoured on presentation on 9 and 12 December 2022.*

*b) Cheque 002 issued in the sum of £10,000 from the Firm's Lloyds Bank Business Account (account no ending 3860) was not honoured on presentation on 16, 18, 20, 24, 26 and 30 January 2023.*

*c) Cheque 003 issued in the sum of £10,000 from the Firm's Lloyds Bank Business Account (account no ending 3860) was not honoured on presentation on 16, 18, 20, 24, 26 and 30 January 2023.*

*d) Cheque 002 issued in the sum of £10,000 from the Firm's Lloyds Bank Business Account (account no ending 3860) was not honoured on presentation on 1, 3, 7 and 9 February 2023.*

*e) Cheque 003 issued in the sum of £10,000 from the Firm's Lloyds Bank Business Account (account no ending 3860) was not honoured on presentation on 1, 3, 7 and 9 February 2023.*

*f) In December 2022, twenty-four Direct Debit payments made from the Firm's Lloyds Bank Business Account (account no ending 3860) were returned when there were insufficient funds in the account to meet them. Those Direct Debit payments having been returned on 8, 9, 16, 19, 21, 22, 23, 28, 29 and 30 December 2022.*

*g) In January 2023, four Direct Debit payments made from the Firm's Lloyds Bank Business Account (account no ending 3860) were returned when there were insufficient funds in the account to meet them. Those Direct Debit payments having been returned on 16 and 24 January 2023.*

*h) In February 2023, three Direct Debit payments made from the Firm's Lloyds Bank Business Account (account no ending 3860) were returned when there were insufficient funds in the account to meet them. Those*

*Direct Debit payments having been returned on 1, 10 and 21 February 2023.*

**Contrary to Rule 5 of the Rules of Conduct**

***Emma Walker is therefore liable to disciplinary action under RICS Bye-law 5.2.2(c)***

**Firm:**

*9. Between 1 July 2022 and 14 December 2022, EW Estates Ltd (the Firm) failed to comply with its professional obligations in that it did not ensure that all previous and current professional work was covered by adequate and appropriate professional indemnity cover.*

**Contrary to Rule 1 of the Rules of Conduct**

***EW Estates Ltd is therefore liable to disciplinary action under RICS Bye-law 5.3.2(c)***

*10. Between 15 December 2022 and 19 May 2023, EW Estates Ltd (the Firm) failed to comply with its professional obligations in that it did not ensure that all previous and current professional work was covered by adequate and appropriate professional indemnity cover.*

**Contrary to Rule 1 of the Rules of Conduct**

***EW Estates Ltd is therefore liable to disciplinary action under RICS Bye-law 5.3.2(c)***

*11. Between 7 December 2022 and 22 February 2023, of EW Estates Ltd (the Firm) failed in its duty to manage its professional finances responsibly in that:*

*a) Cheque 001 issued in the sum of £7,200 from the Firm's Lloyds Bank Business Account (account no ending 3860) was not honoured on presentation on 9 and 12 December 2022.*

*b) Cheque 002 issued in the sum of £10,000 from the Firm's Lloyds Bank Business Account (account no ending 3860) was not honoured on presentation on 16, 18, 20, 24, 26 and 30 January 2023.*

*c) Cheque 003 issued in the sum of £10,000 from the Firm's Lloyds Bank Business Account (account no ending 3860) was not honoured on presentation on 16, 18, 20, 24, 26 and 30 January 2023.*

*d) Cheque 002 issued in the sum of £10,000 from the Firm's Lloyds Bank Business Account (account no ending 3860) was not honoured on presentation on 1, 3, 7 and 9 February 2023.*

*e) Cheque 003 issued in the sum of £10,000 from the Firm's Lloyds Bank Business Account (account no ending 3860) was not honoured on presentation on 1, 3, 7 and 9 February 2023.*

*f) In December 2022, twenty-four Direct Debit payments made from the Firm's Lloyds Bank Business Account (account no ending 3860) were returned when there were insufficient funds in the account to meet them. Those Direct Debit payments having been returned on 8, 9, 16, 19, 21, 22, 23, 28, 29 and 30 December 2022.*

*g) In January 2023, four Direct Debit payments made from the Firm's Lloyds Bank Business Account (account no ending 3860) were returned when there were insufficient funds in the account to meet them. Those Direct Debit payments having been returned on 16 and 24 January 2023.*

*h) In February 2023, three Direct Debit payments made from the Firm's Lloyds Bank Business Account (account no ending 3860) were returned when there were insufficient funds in the account to meet them. Those Direct Debit payments having been returned on 1, 10 and 21 February 2023.*

**Contrary to Rule 5 of the Rules of Conduct**

***EW Estates Ltd is therefore liable to disciplinary action under RICS Bye-law 5.3.2(c)***

**Burden of proof**

3. Under Rule 165 of the Rules, the burden was on Ms Walker to satisfy the Appeal Panel that the Regulatory Sanction imposed by the Disciplinary Panel was wrong.

**Background**

4. Ms Walker did not attend the Disciplinary Panel hearing, and was not represented. After considering the relevant factors, the Disciplinary Panel decided to proceed in her

absence. Ms Walker provided some submissions in her defence in an email dated 5 February 2024, which was considered by the Disciplinary Panel in arriving at its decision.

5. The Disciplinary Panel found as facts that:

5.1 Ms Walker first became a member of the RICS on 30 November 2018. She joined as an elected AssocRICS Member. She obtained Chartered Status on 11 May 2022 by following the Senior Professional Assessment (SPA) route. This involved, amongst other things, demonstrating qualifications and experience at a senior level. On 20 January 2023 she was elected to FRICS.

5.2 Ms Walker was at the relevant times the sole principal in EW Estates Ltd (“the Firm”), based in Ashington, and was a director of that company, together with two family members. The Firm was subject to regulation by the RICS from 22 July 2020. Ms Walker and her firm came to the attention of the RICS following a Member Support Visit on 27 February 2023 which raised a number of serious concerns and ultimately led to the hearing before the Disciplinary Panel which is the subject of this appeal.

6. The Disciplinary Panel further found that Ms Walker had:

6.1 Dishonestly misrepresented her qualifications and experience in the Senior Professional Assessment form, in order to deceive the RICS. The deceptions meant that she qualified for Chartered Membership, when otherwise she would not have (*see the Disciplinary Panel’s determination at paragraphs 13-22*).

6.2 Dishonestly secured a £25,000 loan from a Mr Lee Jones by representing that it was for use in a refurbishment project at a property called Bentinck Villas. She was not undertaking any work there, and she could not have undertaken the work as she did not own the property, nor did she have any agreement with the owners or anyone else to undertake any renovations (*ibid. at paragraphs 26-29*).

6.3 Lacked integrity by using the £25,000 for some other purpose, conduct which the Panel described as “*utterly reprehensible behaviour [which] fell well below the standards which society expects from professional persons*” (*ibid. at paragraph 33*).

6.4 Operated without indemnity insurance for a period between 1st July 2022 and 19th May 2023 (*ibid. at paragraphs 36-41*).

6.5 Contrary to her obligation to ensure that the services of her company were carried out by competent people, allowed non-qualified surveyors to carry out building inspections without adequate supervision (*ibid. at paragraphs 43- 47*).

6.6 Failed to manage the Firm's finances responsibly by 'bouncing' cheques and having insufficient funds to meet direct debits in December 2022 and January and February 2023 (*ibid. at paragraphs 49 – 50*).

7 The Panel also found that the Firm had:

7.2 Operated without indemnity insurance for a period between 1st July 2022 and 19th May 2023 (*ibid. at paragraph 51*)

7.3 Failed to manage its finances properly in the ways set out in paragraph 6.6 above (*ibid. at paragraph 53*).

### **The decision of the Disciplinary Panel on sanction**

8 Having made the findings set out above, the Disciplinary Panel found both Ms Walker and the Firm liable to disciplinary action.

9 The Disciplinary Panel assessed the aggravating features of the case as follows:

*“59. Ms Walker's conduct undoubtedly involved very serious wrongdoing and dishonesty and it was deliberate. It enabled her to acquire full RICS membership, and even fellowship, when she did not qualify for it. It enabled her to benefit personally by being able to practise in a highly respected profession. It posed a major risk to the public and was seriously damaging to the profession. The professional status she had improperly gained facilitated further acts of dishonesty by her such as obtaining a loan from Mr Jones.*

*60. Ms Walker's actions presented a high risk of loss to all who came into contact with her. Her clients would have relied on her advice and opinions as a Chartered Surveyor when she was not entitled to that status. This was compounded by the fact that she had no professional indemnity insurance in place for nearly a year. It was further compounded by the fact that many of the reports signed by her or another qualified surveyor in the firm were not in fact prepared by the qualified surveyor but by unqualified staff whose work was sent out without being reviewed.*

*61. Ms Walker's trainees were seriously prejudiced. They were misled into acting beyond their competence and qualifications and risked losing everything they had worked for in their training. Mr Jones lost the return on the investment that he had been deceived into making and suffered considerable stress, inconvenience and delay in getting his money back. Those people who had cheques or direct debits dishonoured suffered loss.*



*62. Some of the breaches continued for a considerable time. The effects of obtaining chartered status by dishonesty continued indefinitely. The failure to have PI cover lasted for nearly a year.”*

10 The Disciplinary Panel identified the following mitigating factors:

*“63. As to mitigating factors, Ms Walker had no previous disciplinary history with RICS. If her account is accurate she was under some personal and emotional pressure. However the proper response to that was to seek help rather than resort to dishonesty. Most of the other suggested mitigating factors [in the Sanctions Policy: Guidance to RICS Regulatory Tribunal Rules, Version 9 with effect from 2 February 2022 and its supplements] were not present.”*

11 The Disciplinary Panel went on to consider the possible sanctions available to it in ascending order of seriousness. Having considered and dismissed all the other sanctions available to it, the Disciplinary Panel concluded that Ms Walker should be expelled from membership of the RICS, and the Firm should be removed from registration with the RICS, stating:

*“66. The only sanctions sufficient to protect the public and mark the gravity of the misconduct in this case were expulsion of Ms Walker and removal of EW Estates Ltd from the register. This was in line with the criteria in section 21 of the Sanctions Policy Guidance.*

*67. Under Rule 126, the decision of this Panel will take effect on expiry of any relevant appeal period, unless the Panel directs otherwise. The Panel considered that it was necessary to direct that the order take effect immediately. Ms Walker represents a significant danger to the public. She and her firm should not be allowed to remain registered even for a short period.”*

### **Preliminary issues**

12 On 25 June 2024, Ms Walker had applied for this Appeal Panel hearing to be held in private in accordance with Rule 56 of the Regulatory Tribunal Rules on grounds related to her personal circumstances. The Chair of the Appeal Panel had rejected that application in a decision dated 3 July 2024 on the basis that it did not establish the “*exceptional circumstances*” required by the Rules for a hearing to be held in private. That decision was sent to Ms Walker by email the following day.

13 On the morning of this hearing at 09.26, Ms Walker sent an email to the Hearings Officer to the effect that, in the light of the decision not to hold the hearing in private, she would not be attending. She indicated that she would aim to submit written representations to the Appeal Panel “*by lunchtime today*”. The Appeal Panel treated this as an application for an

adjournment under Rule 83 of the Rules, and given the personal nature of the matters Ms Walker had referred to in her email, considered the matter in private session.

14 In response to Ms Walker's email, Mr Rich on behalf of the RICS submitted that the appeal hearing should proceed as scheduled. It was not appropriate to wait to allow Ms Walker to submit written representations. Further, Mr Rich said that Ms Walker should not be allowed to disrupt the Appeal Panel's work, or delay the hearing.

15 Having heard from Mr Rich and received the advice of the legal adviser, the Appeal Panel decided to reject the application to adjourn because, in the Appeal Panel's view:

15.1 Ms Walker had had more than adequate notice of this hearing, and of the Chair's decision that it was not to be held in private. Ms Walker had not provided any reasons why she could not have provided written submissions in advance. This appeared to the Appeal Panel to be part of a pattern of conduct, consistent with Ms Walker's actions during the Disciplinary Panel proceedings, which would potentially disrupt the smooth running of the hearing.

15.2 It was required to take account of the interests of justice in deciding whether to grant an adjournment under Rule 84 of the Rules. It considered that the interests of justice encompassed not only Ms Walker's rights, but also those of the RICS and the public interest. A number of members of the public had chosen to attend the virtual hearing, underlining the fact that there was a clear public interest in the case proceeding without delay.

16 The Appeal Panel announced its decision on the application for adjournment in public. Mr Rich then applied under Rule 81 of the Rules for the case to proceed in Ms Walker's absence. He drew the Appeal Panel's attention to the notice of the hearing dated 21 May 2024 that had been served on Ms Walker by email to her preferred email address on 22 May 2024, and to the statement of the Hearings Officer dated 8 July 2024 confirming that Ms Walker had been correctly served in accordance with the Rules.

17 Mr Rich submitted that not only had the notice of hearing been correctly served on Ms Walker but she was plainly aware of the hearing, as was clear from the email correspondence received that morning. Mr Rich reminded the Appeal Panel of the relevant law as set out in the cases of *R v Hayward, Jones and Purvis* [2001] QB 862, CA; *R v Jones (Anthony)* [2003] 1 AC 1, HL; and *General Medical Council v Adeogba; General Medical Council v Visvardis* [2016] EWCA Civ 162. He submitted that having regard to the relevant circumstances, the Appeal Panel should exercise its discretion in favour of proceeding to hear the appeal. [*N.B. in the course of Mr Rich's submissions at 10.44am, Ms Walker sent an email to the RICS confirming that she would not be attending and that she had no preference as to whether the case was dealt with on the papers or at an oral hearing*].

18 Having heard from Mr Rich and accepted the advice of the legal adviser, the Appeal Panel decided that the hearing should proceed in Ms Walker's absence.

- 19 The Appeal Panel concluded that although the reasons given by Ms Walker for her non-attendance were concerning, there was very limited independent evidence to support them – and any event, the circumstances described were of limited direct relevance to the hearing of her appeal. It was clear to the Appeal Panel that Ms Walker was (and had been for some considerable time) aware of this hearing and had been provided with the required notice under the Rules.
- 20 Ms Walker was also aware from correspondence with the RICS that the hearing could proceed in her absence, and that she had the opportunity to have the matter dealt with on the papers (and thus without observers being present). Ms Walker had made clear her intention not to attend. She had not availed herself of the opportunity to have the matter dealt with on the papers.
- 21 The Appeal Panel therefore considered that Ms Walker had voluntarily absented herself from the hearing. Again, the Appeal Panel reminded itself that fairness encompassed not only fairness to Ms Walker, but also to the RICS and the general public interest in avoiding unnecessary delay. There was no indication that an adjournment would result in Ms Walker attending or otherwise participating in the hearing.
- 22 The Appeal Panel concluded that the interests of justice weighed in favour of the appeal hearing continuing. The Appeal Panel directed that Ms Walker be informed that were any written submissions from her received by the RICS during the course of the hearing, it would take those submissions into account. *[N.B. Ms Walker was informed by the Regulatory Tribunal Executive that she had until 12pm on 9 July 2024 to provide any submissions. She did not however provide any submissions by that time or by the time the hearing had concluded.]*

### **The Appellant's Grounds of Appeal and submissions**

- 23 Ms Walker set out her grounds of appeal on the standard RICS appeal form stating: *"I wish to appeal the sanction imposed, as I do not believe it is fair or proportionate."* She also claimed that serious personal matters had not been addressed by the Disciplinary Panel.
- 24 Ms Walker did not provide any other submissions as to why the sanction imposed by the Disciplinary Panel was unfair or disproportionate. She had referred to a number of documents within the appeal form, and had indicated that copies of these could be provided at this hearing. However, other than a letter from a support service provider dated 3 July 2024 and two screen shots of text messages, Ms Walker had not provided any other documents.

### **Submissions on behalf of the Respondent**

- 25 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 and in particular to his detailed response to Ms Walker's appeal. He drew the Appeal Panel's attention to the letter from a support service provider dated 3 July 2024 and sent to the RICS on Ms Walker's behalf. Although Ms Walker had not applied to the Appeal Panel to admit further evidence in connection with her appeal, Mr Rich confirmed that the RICS did not object to the Appeal Panel taking that letter into consideration. *[N.B. although not Mr Rich did not specifically refer to the two screenshots or emails that Ms Walker had submitted prior to and during the hearing, the Appeal Panel also took them into consideration in arriving at its decision. See below at paragraph 38.]*
- 26 Mr Rich said there was one fundamental problem with Ms Walker's appeal on sanction. This was that Ms Walker's membership (and fellowship) of the RICS had been obtained fraudulently, when she did not qualify for membership as she claimed. This alone, according to Mr Rich, would make any sanction short of expulsion wholly inadequate.
- 27 Mr Rich submitted that for the Appeal Panel to decide that expulsion was "wrong" would be to suggest that once membership was obtained by deception, it could be retained even though the person in question had never demonstrated that they qualified for it.
- 28 Mr Rich said that this would be a shocking and perverse result, and would present a risk to the public who would presume the likes of Ms Walker had the experience and skills of a chartered Member or Fellow of the RICS. Such a conclusion would inflict significant damage on the reputation of the profession and public faith in RICS members by making a mockery of the qualification requirements of various levels of membership.
- 29 Mr Rich submitted that the Disciplinary Panel had approached sanction in the correct way, evaluating the aggravating and mitigating circumstances, insight, and risk of repetition before reaching its conclusions. Mr Rich said that the Disciplinary Panel had referred appropriately in its decision to the representations, including those in mitigation, that Ms Walker had made to it via email.
- 30 Further, Mr Rich said that Ms Walker had shown no insight or remorse. Neither had she demonstrated any remediation. What she now referred to as mitigation were not matters that could mitigate against the fundamental dishonesty she had demonstrated.
- 31 Mr Rich said that while Ms Walker should not suffer an enhanced sanction just because she denied most of the allegations (though Mr Rich said that arguably she had admitted the £25,000 loan was not for the project she claimed it was for, although out of caution the charge was treated as denied), her denials that she had deceived the RICS in her chartered membership application, and her failure to address in any detail other of the charges, made it difficult for her to demonstrate insight, and impossible for any Panel to conclude that there was not a significant risk of repetition.
- 32 Mr Rich said that given the findings of dishonesty, lack of integrity and the serious failures in managing her firm such that professional indemnity insurance was not maintained; cheques

and direct debit payments were not honoured; and unqualified and inadequately supervised staff were used to do survey reports, the sanction of expulsion from membership was clearly justifiable.

- 33 The findings against the Firm were also serious, involving a failure to maintain professional indemnity insurance for a period of approximately one year, and a failure to manage its finances such that a number of payments were dishonoured. Mr Rich said that such conduct would threaten the reputation of the RICS and the wider surveying profession. He submitted that the Firm's culpability also had to be considered in the context of Ms Walker being the sole regulated principal. For the RICS to permit the Firm to remain regulated by the RICS despite the dishonesty of its principal would adversely impact the reputation of the RICS generally.

### **Appeal Panel's Decision**

- 34 The Appeal Panel carefully considered all the written material with which it had been provided including: the written submissions by the RICS; the transcript of the Disciplinary Panel hearing; and the evidence bundle that was before the Disciplinary Panel; and the letter, emails and screenshots supplied by Ms Walker in advance of and during this hearing. It listened carefully to the oral submissions of Mr Rich. It accepted the advice of the legal adviser.

- 35 Having done so, 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 and*

*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...*

- 36 Rule 165 states that the burden is on the Appellant to satisfy the Appeal Panel that the Regulatory Sanction in question was "wrong".

- 37 The Appeal Panel accepted the advice of the legal adviser to the effect that the required test was therefore 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 the range of what was reasonable) (*GMC v Meadows* [2006] EWCA Civ 1390 at [125] – [127]).

- 38 As noted above, though Ms Walker had not applied to introduce any fresh evidence in the appeal, the Appeal Panel nonetheless considered the further material she had supplied (the

letter dated 3 July 2024, the two screenshots and the email correspondence preceding and during this hearing).

- 39 The Appeal Panel accepted the legal adviser's advice that decisions on dishonesty may be awarded a lesser degree of deference (*General Medical Council v Theodoropoulos* [2017] EWHC 1984 (Admin)). It similarly accepted that an appeal panel exercises a secondary judgment. It must give respect to the decisions of a specialist disciplinary tribunal in particular where sanction is concerned as per *Fatnani and Raschid v. General Medical Council* [2007] EWCA Civ 46.
- 40 The Panel could find no basis on which to disturb the findings of the Disciplinary Panel or its decision on sanction in this case for the following reasons:
- Ms Walker had not in her grounds of appeal challenged any of the factual findings of the Disciplinary Panel, and in particular had not disputed the finding that her chartered membership of RICS had been obtained by deceit. As Mr Rich had rightly submitted, it would be a perverse result were expulsion from membership not to be the consequence of that finding.
  - As regards the sanction imposed by the Disciplinary Panel, as the case law amply demonstrates, even a single instance of dishonesty may justify an expulsion order. In this case, the Disciplinary Panel had found that Ms Walker's dishonesty was serious and repeated. The Disciplinary Panel had assessed the risk presented by Ms Walker as high, as demonstrated by its decision to impose immediate expulsion.
  - The Disciplinary Panel had fully considered all of the mitigating factors put forward by Ms Walker in arriving at its decision to expel her, a sanction which in the Appeal Panel's view was plainly within the range of reasonable outcomes.
  - The Disciplinary Panel had followed the Sanctions Policy, in particular in terms of proportionality in its approach – by considering 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.
  - The Disciplinary Panel also found that Ms Walker had failed to maintain professional indemnity insurance or run her business properly, both of which could have had a potentially catastrophic effect on public confidence in the surveying professions and RICS as regulator, as well as directly on clients. For the same reasons the findings against the Firm were equally serious, and removal of the Firm from the Register was clearly within the range of reasonable sanctions available to the Disciplinary Panel.
  - Ms Walker had raised as mitigation her difficult personal circumstances. However Ms Walker had not explained why she considered that those circumstances had any direct bearing on her conduct as found proven by the Disciplinary Panel. The Appeal Panel

was unable to see any direct connection between those circumstances and her conduct as demonstrated by the findings of the Disciplinary Panel in this case. Her actions, in particular the proven dishonesty in obtaining her RICS membership and fellowship, were fundamentally incompatible with registration as a chartered surveyor.

- 41 In the 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 satisfied that the sanctions of expulsion of Ms Walker and removal from the register of the Firm, imposed by the Disciplinary Panel, were wrong.

## **Publication and Costs**

### **Publication**

- 42 The Panel considered the guidance as to publication of its decisions. The legal adviser's advice was, and the guidance provides, that it is usual for the decisions of the Panel to be published on the RICS' website and in RICS Modus. 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.
- 43 The Panel therefore orders that this appeal decision – and the decision of the Disciplinary Panel - be published on the RICS' website in accordance with Supplement 3 to the Sanctions Policy 2022 version 9.

### **Costs**

- 44 The RICS made an application for the costs of the proceedings against Ms Walker. Mr Rich invited the Appeal Panel to reopen the entire question of costs, on the basis that the Disciplinary Panel had not fully accounted in its order for costs for the fact that its hearing finished a day earlier than listed.
- 45 Consequently, Mr Rich provided the Appeal Panel with a new schedule of costs totalling £28,668 (which showed a reduction in the amount claimed for the Disciplinary Panel hearing from £19,688 to £18,478.00, together with investigation costs of £3,375.00, the costs of the interim measures hearing of £2,170 and the costs of the Appeal Panel hearing of £4,645.00).
- 46 Ms Walker had not provided any statement of means or other evidence as to her current financial circumstances. Having heard submissions from Mr Rich on the question of costs, the Appeal Panel considered that it was appropriate for Ms Walker to pay the costs of this appeal and the disciplinary proceedings, otherwise that cost would fall on the profession as a whole.
- 47 The Appeal Panel was satisfied that it was just and reasonable to order that Ms Walker pay the entirety of the costs of the proceedings against, totalling £28,668.00. Absent any agreement to the contrary, those costs must be paid to the RICS within 28 days.