

**BEFORE THE APPEAL PANEL OF THE**

**ROYAL INSTITUTION OF CHARTERED SURVEYORS**

**KEVIN TOOMBS [0059476]**

**V**

**ROYAL INSTITUTION OF CHARTERED SURVEYORS**

**On**

Friday 22 May 2026

**At**

Colmore Row, Birmingham

**Panel**

Alexandra Marks (Lay Chairman)

Emma Moir (Lay Member)

Andrew McFarlane (Surveyor Member)

**Legal Assessor**

Chris Hamlet

**RICS Representative**

Ben Rich, Counsel

**Appellant Representative**

Mr Toombs represented himself

## Hearings Officer

Jae Berry

## Background

1. Between 15-17 September 2025, a Disciplinary Panel of the RICS found allegations of Misconduct proved against Mr Toombs (“the Appellant”). The Allegations in question, set out at paragraph 1 of the Disciplinary Panel’s decision, concerned:
  - emails sent to Mr Weerawardena in December 2021 which failed to treat him with respect and were discriminatory in nature;
  - a conviction in November 2023 of Racially Aggravated Harassment of Mr Weerawardena; and
  - a statement made to Mr Weerawardena in February 2022 which failed to treat him with respect.
2. As a product of its findings, the Disciplinary Panel concluded the Appellant was liable to disciplinary action and ultimately expelled the Appellant from membership of RICS. In addition, he was ordered to pay £16,890.50 in costs.
3. The Appellant appeals those decisions. He produced a notice of appeal dated 21 October 2024 which set out the grounds as follows:

*“The respected but INCORRECT tribunal decision was ultra vires.*

*Tribunal did not exercise the duty of care and follow the trail as required by a reasonable member of RICS. See Adeel’s emails, more to follow”*

4. The Appellant subsequently provided further details of his grounds of appeal which can be summarised as follows:

- i. The Presenting Officer had submitted he had shown no remorse, when in fact he had repeatedly apologised;
- ii. The hearing had proceeded on the false basis that he had received a criminal conviction;
- iii. In the absence of a criminal conviction, the hearing should never have taken place; and
- iv. The Appellant has apologised for emails in which he made reference to chicken excrement – and insufficient account had been taken of that.

5. RICS produced a Response to the appeal dated 14 January 2026. It resisted each ground advanced. Specifically, it was submitted that:

- i. The Appellant did show a “complete lack of anything amounting to genuine remorse” given his denial of Allegations 1 and 3 and denial of the conviction to which Allegation 2 related. Reference was also made to the Appellant’s evidence to the Disciplinary Panel in which he continued to deny wrongdoing.

It was further submitted that in order to uphold an appeal that concerned submissions by the Presenting Officer, the Appellant would have to show that they were a) unjustified, b) wrongly adopted by the Disciplinary Panel and c) rendered the Disciplinary Panel's decisions ‘wrong’.

Reference was also made to the Disciplinary Panel's determination in which it said it had “grave concerns about whether the apology was authentic”. [para 74]

- ii. The claim that the Appellant was not convicted was ‘unarguable’ given the existence of a Certificate of Conviction and the transcript of the sentencing remarks.

- iii. The response to Ground ii) disposes of this ground; and
- iv. The Disciplinary Panel was entitled to regard the email as inconsistent with the Appellant's professional obligations.

## **Procedure on Appeal**

- 6. The Appeal Panel received advice from the Legal Assessor regarding the procedure to be followed. It was referred to Part X of the Regulatory Tribunal Rules, Version 2. In particular, it was highlighted that Rules 149 and 150 provide that the appeal is a 'review', not a re-hearing, of the decision of the Disciplinary Panel and the parties may not provide new evidence without leave of the Appeal Panel.
- 7. Rule 151 highlights that the burden is on the Appellant to satisfy the Appeal Panel that the order being appealed was wrong.
- 8. The Appeal Panel was taken to its powers on appeal as set out at Rule 180. These are to:
  - i. Grant the appeal, where the Appeal Panel considers the original decision was wrong; or
  - ii. Grant the application for review, pursuant to Rule 166, where the Appeal Panel considers the sanction imposed was unduly lenient [this does not apply in this instance].
- 9. Where the appeal is granted, Rule 181 provides that the Appeal Panel may:
  - i. Revoke or vary the finding that the Regulated Member was liable to disciplinary action and/or
  - ii. Revoke or vary the Sanction imposed to one of greater or lesser severity or
  - iii. Revoke or vary the decision and/or

iv. Refer the matter back to a Disciplinary Panel for additional consideration including, if warranted, a new hearing.

10. The Appeal Panel was referred to the RICS Guidance for Regulated Members considering an Appeal [‘the Guidance’]. Under the heading “What is meant by ‘wrong’”, the Appeal Panel was invited to consider the following:

- Was the sanction disproportionate...? Was there a serious procedural irregularity which...affected an important decision in the case or rendered the hearing unfair?
- Did the Disciplinary Panel make an important finding of fact which had no evidence to support it or upon which the conclusion could not have been drawn?
- Was there a failure to consider relevant evidence?
- Was there a misunderstanding of relevant evidence or the weight of the evidence?
- Are there sufficient reasons to support the decision reached...?
- Is the decision wrong in light of the new evidence which was not available at the time of the Disciplinary Panel hearing? [see below].

11. The Guidance highlights that the Appeal Panel conducts a review of the decisions which the Disciplinary Panel made which are the subject of the appeal and is not a rehearing of the original case. Unless the Appeal Panel determines that new evidence is admissible, evidence which was not before the Disciplinary Panel will not be considered.

12. The Guidance further states:

*“The Appeal Panel will be slow to interfere with the decisions of the Disciplinary Panel, since it is a specialist panel which has had the benefit of hearing and viewing the evidence first hand...[and] which has reached reasoned judgements on liability to disciplinary action and sanction. As a result, the burden to show that the decision was wrong rests with the party bringing the appeal and the Appeal Panel will require good reasons for interfering.”*

## Determination of the Appeal

13. The Appeal Panel carefully considered a 10-page service bundle, confirming the Appellant's request for an in-person hearing of the appeal and a 430-page appeal bundle, which included the written submissions of both parties, the record and transcript of the Disciplinary Panel decision and the associated material. It also viewed three video clips, taken on Mr Weerawardena's mobile phone, of his encounter with the Appellant in February 2022 which was the subject of Allegation 3.
14. The Appeal Panel expressed to the Appellant its overriding concern was to ensure that the hearing was fair and that he was afforded a full opportunity to set out his position and to address RICS' response.
15. With respect to each of the grounds of appeal, as summarised by RICS, the Appeal Panel concluded as follows:
- i. Not upheld. The Appeal Panel considered a) the submissions made by the Presenting Officer about the Appellant's denial of the allegations and ongoing lack of genuine remorse, as expressed in his representations and evidence to the Disciplinary Panel; b) the Disciplinary Panel took an independent view that the apologies advanced by the Appellant lacked authenticity; and c) the consequential decisions by the Disciplinary Panel in respect of the Allegations were not 'wrong'.  
  
The Appeal Panel considered that a genuine expression of remorse required a demonstration of insight into the wrongdoing rather than simple or repeated apologies. Instead, the Appellant has continued to deny wrongdoing.
  - ii. Not upheld. The claim that the Appellant was not convicted was unsustainable given the existence of a valid Certificate of Conviction and the transcript of the sentencing remarks. The Appeal Panel observed that the DBS Basic Certificate of 13 October 2025 on which the Appellant relied to demonstrate that he has

never received a conviction does not displace conclusive evidence to the contrary in the form of the Certificate of Conviction. The decision of the Disciplinary Panel was accordingly not 'wrong'.

- iii. Not upheld. The decision on Ground ii) disposes of this ground.
- iv. Not upheld. The Disciplinary Panel was entitled to regard the email in question as inconsistent with the Appellant's professional obligations and accordingly was not 'wrong'.

The Appeal Panel noted that the email was written in the Appellant's professional capacity and in furtherance of his client's position. Whatever the purported informality of the Appellant's relationship with Mr Weerawardena and/or of his means of communication, the Appellant remained under a duty to ensure the content met the standards expected of a Regulated Member of RICS.

- 16. For the avoidance of doubt, the Appeal Panel also considered each of the factual findings made by the Disciplinary Panel and was content these were reasonable on the basis of the evidence before it and any discrepancies claimed by the Appellant were immaterial.
- 17. Though not formally argued as a ground of appeal, the Appeal Panel went on to consider whether the Disciplinary Panel was 'wrong' to determine that, as a consequence of its factual findings, the Appellant was liable to disciplinary action. The Appeal Panel considered the Disciplinary Panel's findings, which included a conviction for racially aggravated misconduct, to be of the utmost seriousness which tended to undermine public trust and confidence and damage the reputation of the profession.
- 18. Finally, though this was not formally argued as a ground of appeal, the Appeal Panel considered whether the sanction imposed by the Disciplinary Panel was 'wrong'. Again, in view of the seriousness of the misconduct and the Disciplinary Panel's view of the aggravating features of the case, including the lack of remorse, lack of insight

and the inherent risk of repetition, the Appeal Panel concluded that the sanction imposed was not disproportionate.

19. Accordingly, the appeal was denied and the original order of expulsion was upheld.

### **Decision on costs**

20. Rule 185 provides that the Appeal Panel may make an order for costs in favour of either party, provided the party seeking the order has served a costs schedule upon the other party, “*ordinarily* at least 24 hours prior to any order made by the Appeal Panel.”

21. Rule 92 provides that a Panel may make such orders for costs “as it considers fair and reasonable...”

22. The Appeal Panel took account of a Schedule of Costs, served by RICS on 15 May 2026, covering the substantive Disciplinary Hearing and the costs of the appeal, amounting in total to £21,186.60. The Appellant was invited to comment but made no submissions on that Schedule.

23. The Appeal Panel considered the costs on the Schedule to be fair and reasonably incurred. However, given that submissions from the parties were completed within a half day, rather than the full day accounted for on the Schedule, the Appeal Panel concluded it was reasonable to halve the costs of the appeal hearing to £1,325.

24. Accordingly, it ordered the Appellant to pay RICS’ costs totalling £19,861.60.

## **Publication**

25. The Appeal Panel considered the guidance as to publication of decisions. It was noted that it is usual for the decisions of a Panel to be published on the RICS website and in the RICS Modus.
26. The Appellant made no submissions on the issue.
27. The Appeal Panel saw no reason to depart from normal practice in this case, noting that part of its role is to uphold the reputation of the profession, and publication of its decisions is an essential part of that.
28. It was duly ordered that this decision be published on the RICS website and in the RICS Modus, in accordance with Supplement 3 to the Sanctions Policy, Version 9.