

## **Disciplinary Panel Hearing**

### **Case of**

#### **Mr Rodney Wells FRICS**

Old Kings Arms, Church Street, Winsham, Somerset, TA20 4HU

### **On**

Wednesday 24 October 2018

**At 55 Colmore Row, Birmingham, B3 2AA**

### **Panel**

Carolyn Tetlow (Lay Chair)  
Richard Bayly (Lay Member)  
Ian Hastie (Surveyor Member)

### **Legal Assessor**

Tim Grey

### **Representatives for the parties**

Mr Christopher Geering (Counsel) appeared on behalf of RICS

Mr Marc Beaumont (Counsel) appeared on behalf of Mr Wells (the Member)

### **Hearing Officer**

Miss Maria Choudhury

Mr Wells appears before the RICS Disciplinary Panel in connection with the following allegations (as amended):-

1. That he failed to carry out his professional work with due care, skill and diligence and with the proper regard for technical standards expected of him in respect of Homebuyers / Building Survey reports produced for the following properties:
  - a. Property X
  - b. Property X
  - c. Property X
  - d. Property X
  - e. Property X

**Contrary to Rule 4 of the Rules of Conduct for Members 2007**

**Mr Rodney Wells is therefore liable to disciplinary action under RICS Bye-law B5.2.2 (c)**

2. He failed to cooperate appropriately with RICS in that he did not respond appropriately and / or in a timely manner, or at all, to correspondence regarding:
  - a. The complaint brought by Mr R
  - b. The complaint brought by Mr A
  - c. The complaint brought by the Ombudsman Service
  - d. The expert report of Mr M B FRICS

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

**Mr Rodney Wells is therefore liable to disciplinary action under RICS Bye-law 5.2.2 (c)**

3. He failed to carry out his professional work with proper regard for the standards of service and customer care expected of him in that he:
  - a. Did not respond in a timely and / or appropriate manner, or at all, to correspondence sent to him by Mr S and / or Mr S and / or Mr R and / or Mr A
  - b. Did not provide a copy of a Complaints Policy in a timely manner or at all to Mr S and / or Mr S and / or Mr R and / or Mr A
  - c. Until around June 2016 conducted work for a firm, which he controlled, which did not have an adequate Complaints Policy in place and / or did not operate an adequate Complaints Policy in respect of his work as a Valuer

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

**Mr Rodney Wells is therefore liable to disciplinary action under RICS Bye-law 5.2.2 (c)**

4. He failed to act with integrity in that he failed:

- a. To ensure the firm, Rodney Wells FRICS, which he controlled, complied promptly with the Ombudsman's award made in favour of Mr A
- b. To ensure the firm, Rodney Wells FRICS, engaged constructively with correspondence from the Ombudsman's Service concerning the complaint brought by Mr A

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

**Mr Rodney Wells is therefore liable to disciplinary action under RICS Bye-law 5.2.2 (c)**

The Firm

In respect of the Firm, Rodney Wells FRICS ("the Firm"), it is alleged:

1. That it failed to carry out its professional work with due care, skill and diligence and with the proper regard for technical standards expected of it in respect of Homebuyers / Building Survey reports produced for the following properties:
  - a. Property X
  - b. Property X
  - c. Property X
  - d. Property X
  - e. Property X

**Contrary to Rule 4 of the Rules of Conduct for Firms 2007**

**The firm is therefore liable to disciplinary action under RICS Bye-Law 5.3.2(c)**

2. The Firm failed to carry out its professional work with proper regard for standards of service and customer care expected of it in that it did not:
  - a. Respond in a timely and / or appropriate manner, or at all, to correspondence sent to it by Mr S and / or Mr S and / or Mr R and / or Mr A
  - b. Provide a copy of a Complaints Policy in a timely manner or at all to Mr S and / or Mr S and / or Mr R and / or Mr A

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

**The firm is therefore liable to disciplinary action under RICS Bye-Law 5.3.2(c)**

3. Prior to around June 2016 the Firm failed to operate an adequate Complaints Handling Procedure, in that its policy did not make reference to an Alternative Dispute Resolution provider.

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

**The firm is therefore liable to disciplinary action under RICS Bye-Law 5.3.2(c)**

4. The Firm failed to cooperate appropriately with RICS in that it did not respond appropriately and / or in a timely manner, or at all, to correspondence regarding:
  - a. The complaint brought by Mr R
  - b. The complaint brought by Mr A
  - c. The complaint brought by the Ombudsman Service
  - d. The expert report of Mr M B FRICS

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

**Mr Rodney Wells is therefore liable to disciplinary action under RICS Bye-law 5.3.2 (c)**

5. The Firm failed to act with integrity in that it failed:
  - a. To pay an award made against it by the Ombudsman Service promptly
  - b. To engage constructively or at all with the Ombudsman's investigation into its conduct.

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

**The firm is therefore liable to disciplinary action under RICS Bye-Law 5.3.2(c)**

## **Response & Preliminary Issues**

### ***Agreed Approach***

At the outset of proceedings both parties raised a preliminary issue with the Panel. By agreement Mr Geering on behalf of RICS and Mr Beaumont on behalf of the Member, invited the Panel to consider a document entitled *Provisional Agreed Sanction Submission*.

This written submission invited the Panel to adopt an agreed set of facts, an admission by Mr Wells that those facts rendered him liable to disciplinary action, and that either the proposed

sanction set out therein represented what was the necessary and proportionate sanction, or that a lesser sanction could be imposed in the alternative.

On behalf of RICS Mr Geering submitted that the Panel had power to consider the document. He drew the Panel's attention to the case of *Hill v Institute of Chartered Accountants in England and Wales [2013] EWCA Civ 555* in which the Court endorsed a permissive approach by Chartered regulators to interpretation of their rules. In short, Mr Geering submitted that in the absence of a prohibition the Panel had power to exercise its discretion and consider the submissions within the document. Mr Geering also took the Panel to the criminal case of *R v Goodyear [2005] 2 Cr App R 20* to demonstrate an analogous approach in the criminal sphere.

Mr Beaumont endorsed the submissions and submitted that there were powerful policy reasons to allow an approach such as the one the parties had agreed.

The Panel heard and accepted the advice of the Legal Assessor.

The Panel determined that the case of *Hill* and the general discretion the Panel has to manage its own process allowed it to consider the submissions made within the document and agreed by both parties.

The Panel therefore invited both parties to amplify through oral submissions any points they wished the Panel to pay particular regard to in considering the agreed document.

### ***Amendments to Allegation***

Mr Geering made two applications to amend the allegations. In the first place he sought to amend the numbering of the allegations as a result of a typographical error. The second amendment sought was to insert the word 'promptly' into allegation 4(a) against the Member and allegation 5(a) against the firm. Mr Geering submitted these amendments were necessary to reflect the payment made by the Member in the week before the hearing, and brought to RICS' attention the day before the hearing.

Mr Beaumont took no objection to either application.

The Panel accepted the advice of the Legal Assessor and concluded that although the amendments were occurring late in the process, there was no unfairness occasioned to either party by the making of the amendments. Both amendments were necessary and desirable to properly reflect and explain accurately the facts giving rise to the complaints charged.

The Panel therefore determined to amend allegation 4(a) as follows:

- a. *To ensure the firm, Rodney Wells FRICS, which he controlled, complied **promptly** with the Ombudsman's award made in favour of Mr A*

The Panel determined to amend allegation 5(a) as it related to the Firm as follows:

- a. *To pay an award made against it by the Ombudsman Service **promptly***

## **Background**

The case concerns a number of complaints made by former clients of the Member over a four-year period. During that time the Member undertook Homebuyer Reports and Building Surveys. On five occasions complaints were made to him about the quality and conclusions of the reports. The complaints concerned one Homebuyer Report and four Building Surveys. In each case the Member failed to deal with the complaints for significant periods of time and, it is alleged, dealt with them inadequately. In one case the complaint was escalated to the Ombudsman Services: Property and an award made against the Member. It is alleged by RICS that this award was not paid until substantially after the deadline for payment. It is further alleged that this failing amounts to a lack of integrity.

Thereafter RICS allege that the Member failed to properly engage with RICS during their investigation.

The Panel received and accepted the advice of the Legal Assessor.

## **Findings of Fact**

### **Allegations against the Member**

#### **Allegation 1 - Admitted and Found Proved**

The Panel paid particular regard to the agreed position between the parties and noted that it was agreed that some features of the reports in question fell short of the proper standards of diligence, care and skill expected.

In accepting this conclusion, the Panel was greatly assisted by two expert reports. The first report was prepared on behalf of RICS by Mr B, the second, on behalf of the Member by Mr M.

The Panel noted, by way of example, some of the failings identified by both experts in the Member's report for Property X.

In section F5 of the Member's report for Property X, the description is inadequate, which is not in compliance with the Practice Standards.

Section G1 of the Member's report for Property X contained insufficient information. Mr M agrees with the criticisms made by Mr B, that: *"There is no reference to location of meter or the visual condition of the system in the house e.g. old wiring, mixed switches or sockets or earthing. There is no reference as to whether any certification has been seen or what action should be taken if there is no up to date certification. There should be a link to Section I to enable the legal advisor to make enquiries."*

In sections G2-6 of the Member's report for Property X Mr M considered: *"It is my opinion that the requirements of the practice note have been generally complied with; however, in these sections, the brief wording used in each section of the report does not meet the requirements as stated in the practice note (for example comment on "evidence of installation / alteration certification, annual inspections and reports for all types of installation" – Section G2)."*

In respect of the Member's reports itemised in allegation 1 (b)-(e), Mr M commented in relation to section F in these reports that "*I can see no individual condition rating against elements within Section F*". The Member's reports on these properties also fell short in respect of G1-6, in the same way as Property X, as set out above.

The Panel also noted that Mr M's overall conclusion in respect of the quality of the Member's reports was:

*"...That is not to say that the reports could not be improved in some respect or were completed fully compliantly with the practice notes. They could have been and were not. The lack of compliance unfortunately does tend to indicate that there was some lack of care and diligence in completing the reports."*

In light of the agreed facts, the experts' reports and the Member's admission, the Panel found allegation 1 proved in its entirety.

## **Allegation 2 - Admitted and Found Proved**

The Panel noted that this allegation related to the complaints made by Mr A, Mr R, and the Ombudsman Services: Property, as well as the report by Mr B. It therefore confined its considerations to those matters.

The agreed facts were as follows:

### **Mr R**

Mr R referred his complaint to RICS on 4 June 2016. RICS wrote to Mr Wells on 23 June 2016 asking for his response to Mr R and for confirmation that Mr R had received the Complaints Handling Procedure. RICS received no response and sent a further email on 12 July 2016 reminding Mr Wells of his duty to cooperate with RICS. This also failed to elicit a response.

On 21 July 2016, RICS contacted Mr Wells by telephone and were advised that he was compiling his response. This was eventually received on 14 August 2016. Insofar as it dealt with Mr R's complaint, it indicated that he was in the process of responding and stated he would revert to RICS by 19 August 2016. No such response was received.

### **Mr A**

On 15 June 2016, Mr A referred his complaint to RICS. RICS wrote to Mr Wells on 23 June 2016 asking for his response to this allegation, as well as confirmation that the Complaints Handling Procedure had been provided.

Having received no response, RICS sent a further email on 12 July 2016, reminding Mr Wells of his duty to cooperate with RICS. His response of 14 August 2016 failed to address this complaint and only indicated he was in the process of responding and would revert to RICS on 19 August 2016. He did not do so.

*Ombudsman Services: Property*

On 21 June 2017, the Ombudsman Services: Property referred its complaint to RICS. On 5 July 2017, RICS wrote to Mr Wells regarding this fresh allegation and sent a chaser on 3 August 2017 reminding him of his duty to cooperate. This email notes that whilst Mr Wells had responded to a colleague at RICS on 10 July 2017 on a different matter, he had still failed to respond to her correspondence in the time stipulated.

In respect of this complaint Mr Wells sent a letter dated 5 October 2017 alleging that the work in question had been done by a firm called Tranmere Ltd, of which he was an employee. Since Tranmere Ltd was not a registered firm, neither RICS nor the Ombudsman had jurisdiction in this matter. In response to a request for further details he sent an email on 6 October 2017 providing particulars of employment.

On 24 October 2017, RICS emailed Mr Wells, observing that he had included in Mr A's report his own home address (also the Firm's address), rather than the address registered against Tranmere Ltd in Companies House. He was asked to confirm the position. He failed to respond despite a further chaser on 22 November 2017.

### ***Mr B's expert report***

Following the completion of Mr B's expert report, Mr Wells was contacted on 12 October 2017 and his observations on the report sought. He did not respond at that stage, (but he did so once these proceedings were under way). A further email was sent on 7 November 2017. RICS contacted him by telephone on 16 November 2017 and was told that he was working on a response.

On 20 November 2017, Mr Wells submitted a response, in which he relied on the fact that he was an employee of Tranmere Ltd and considered that he was unable to comment on the criticisms made. RICS pressed its request for information and warned Mr Wells of his duty to cooperate. No further response was forthcoming. The case was referred to a hearing on 4 January 2018. In response to this, Mr Wells provided some general comments on Mr B's expert report.

In light of the facts as agreed and the Member's admissions, the Panel concluded that the Member had failed to co-operate as alleged, and found allegation 2 proved in its entirety. In so doing the Panel noted there was no allegation that the Member's representations in respect of Tranmere Ltd amounted to dishonesty or a lack of integrity.

### **Allegation 3 - Admitted and Found Proved**

The Panel took particular note of the agreed facts, which were as follows:

#### ***Mr. S Complaint***

Mr Wells inspected the property on 11 September 2015 and produced a RICS Building Survey report dated 22 September 2015.



On 1 December 2015, Mr S emailed Mr Wells complaining that his report had failed to identify a number of damp issues. Mr Wells did not respond and two further chasing emails were sent on 7 and 14 December 2015, but without success.

On 17 December 2015, Mr S requested a copy of Mr Wells' Complaints Handling Procedure. Again, this went unanswered. He reiterated this request on 22 December 2015. Mr Wells did not respond.

Mr S referred his complaint to RICS on 30 December 2015. RICS wrote to Mr Wells on 24 February 2016 closing the referral against him on the assumption that he would now cooperate with Mr S and provide a copy of his Complaints Handling Procedure. In fact, he failed to provide any such policy.

On 6 January 2016, Mr S sent a further chaser to Mr Wells. He referred to a telephone conversation with Mr Wells and repeated his request for the Complaints Handling Procedure. He stated he remained "perplexed" why the damp he complained of had not been identified in the report.

Mr Wells sent a full response to the complaint, dated 7 January 2016, albeit this did not include the requested copy of the Complaints Handling Procedure. The client was complaining that a garage wall was damp. The response denied any wrongdoing on Mr Wells' part and complained that Mr S "*insistence*" on a reply had cost him three hours of working time. Mr S replied on the same day by email. He thanked Mr Wells for "*setting out your position so clearly*" but went on to reject Mr Wells' explanation.

The Ombudsman Services: Property letter dated 28<sup>th</sup> October 2016 stated that:

*"...consideration must be given to the fact that it is the garage that is the subject of the complaint. The garage does not form part of the accommodation and is not expected to be constructed to the same levels as the main dwelling. Therefore, the garage would not have insulation and would be more susceptible to the elements. However, the garage is functional and serves its purpose as a store for motor vehicles. In conclusion, we are satisfied that the level of reporting in the building survey is acceptable. The surveyor has tested for damp and none has been identified."*

Mr S informed RICS on 23 March 2016 that he still did not have a copy of the Complaints Handling Procedure. Mr S followed this up with a recorded letter to Mr Wells on 12 April 2016 requesting the policy, which was not answered by the time RICS reopened its investigation on 3 May 2016.

On 23 May 2016, Mr Wells replied to Mr S. He stated that he had initially received only the first line of Mr S email of 7 January 2016 and so had assumed the matter was settled. Mr Wells stated that, having revisited the file, he considered the condition of the building had changed since his inspection. He provided a copy of his Complaints Handling Procedure.

This Complaints Handling Procedure provided did not include a provision for Alternative Dispute Resolution approved by the Regulatory Board. Instead, it noted that if a complaint was not resolved:

*“we will present the grievance or appeal to our Independent Complaints Team, comprised of Chartered Surveyors independent of our firm... All decisions of the Independent Complaints Team are final.”*

On 1 June 2016, in responding to RICS’ investigation of Mr Sherwood’s complaint, Mr Wells provided a copy of his then Complaints Handling Procedure. RICS wrote to him on 16 June 2016 observing that this particular Complaints Handling Procedure was deficient. As a result, Mr Wells produced a new Complaints Handling Procedure and joined the Ombudsman Services: Property as an Alternative Dispute Resolution provider.

Mr S responded to Mr Wells’ letter of 23 May 2016 on 1 June 2016, continuing to pursue his complaint and requesting arbitration. A chaser was sent on 2 July 2016 and again on 2 August 2016 but without success. It appears from Mr S email to RICS on 2 August 2016 that, as of that date, he had not received a copy of the new Complaints Handling Procedure as he cited the old version in his email.

### **Mr S’ Complaint**

Mr Wells undertook a survey on 7 October 2015 following which Mr S purchased the property in question on 27 November 2015.

On 8 February 2016, Mr S contacted Mr Wells about damp in one bedroom at the property. The following day Mr Wells replied and stated he would visit the property to inspect the problem. On 10 February 2016 Mr and Mrs S stated that they would be available for a visit from 8 March 2016 onwards. In the absence of any visit from Mr Wells, Mr S chased matters on 20 and 29 March 2016.

On 6 April 2016, Mr Wells contacted Mr S and said he could visit the property that day. He duly did so, but then failed to contact Mr S afterwards. Mr Wells was chased on the 11, 21 and 26 April 2016 by Mr S, without any success.

Following the RICS referral, Mr Wells wrote to Mr S on 20 June 2016 in which he disputed the complaint. The letter to Mr S did not appear to refer to, or include, a copy of Mr Wells’ current Complaints Handling Procedure.

On 23 June 2016, RICS wrote to Mr Wells reiterating that he must send a copy of his Complaints Handling Procedure to any client, or person to whom he owed a duty of care, upon request or receipt of a complaint. The letter advised him to forward this policy to Mr S. A chaser was sent by RICS on 12 July 2016 and on 3 August 2016 asking for confirmation of what action he had taken concerning this complaint.

Mr Wells concluded that there had been no damp problem at all at the time of his inspection, but that there had been a leak from the bathroom above the bedroom in question after the time of his inspection. He therefore denied culpably failing to report on any damp issue.

### **Mr. R's Complaint**

Mr Wells conducted an inspection on 20 June 2015 and issued his report on 17 July 2015. Mr R made a complaint on 20 April 2016 alleging that the report had missed woodworm. He did not receive a response or a copy of Mr Wells' Complaints Handling Procedure.

Following the referral to RICS and correspondence from RICS regarding this complaint, on 30 August 2016 Mr Read confirmed that he had still had no response from Mr Wells.

The main complaint was that Mr Wells had not found extant woodworm, but in his report he stated: *"Woodworm: No live flight holes seen. Houses built in this area were not covered by the more recent Building Regulations which required all structural timber to be 'tanalised' i.e. treated to be proofed against woodworm infestation. Many houses, where woodworm was discovered, have been sprayed and thus proofed. Often a guarantee being given. This was often for a period of thirty years, and therefore in this case potentially expired. It is impossible to tell [if] a structure has been treated without invasive testing. Please make enquiries of the present vendor or consider having a specialist quote."*

### **Mr. A's Complaint**

Mr Wells undertook a survey on 20 November 2015. He delayed issuing the final report until 20 December 2015 and when he did finally produce it, according to Mr A, it lacked appropriate detail. Mr A emailed several queries on 4 January 2016, but received no reply. He then chased this on 15 January 2016 as a matter of urgency since the contracts of sale were due. Mr Wells did not respond.

Mr A eventually managed to speak to Mr Wells and he said that he would review his notes and photographs and contact him. He failed to do so. Mr A then submitted a complaint and asked for his Complaints Handling Procedure. He received no reply to this either.

Following the referral to RICS and correspondence about this complaint, on 30 August 2016 RICS wrote to Mr A to ask whether he had received a response to his complaint. On 5 September 2016 Mr A stated that he had not. RICS provided him with the details of the Ombudsman Services: Property.

In light of the evidence, the agreed facts and the admissions made by the Member, the Panel concluded that the Member had failed to have proper regard for the standards of service and customer care, and therefore found allegation 3 proved in its entirety.

### **Allegation 4 - Admitted and Found Proved**

The agreed facts were that Mr A pursued his complaint to the Ombudsman Services: Property. This resulted in the Ombudsman making an award of £375 in his favour. The final decision was sent in writing to Mr Wells on 23 March 2017. The Ombudsman Services: Property chased him on 21 April and 22 May 2017, as he still had not paid the sum awarded or responded to them at

all. As a result, on 21 June 2017, the Ombudsman referred the matter to RICS. Mr Wells only paid this sum on 10 October 2018 after advice from counsel.

In light of the agreed facts and the Member's admission, the Panel concluded that the Member had failed to pay the Ombudsman Services Property award in a timely manner.

The Panel considered that in line with the definition of integrity within the RICS Global and Professional Standards and the recent definition given in the case of *Wingate & Others v SRA* [2018] EWCA Civ 366, such a failing demonstrated a total disregard for the Ombudsman Services: Property and a consequent lack of integrity.

In the circumstances the Panel found allegation 4 proved in its entirety.

## **Allegations against the Firm**

### **Allegation 1 (The Firm) - Admitted and Found Proved**

For the reasons set out above in relation to allegation 1 as against the Member personally, this allegation is found proved.

### **Allegation 2 (The Firm) - Admitted and Found Proved**

For the reasons set out above in relation to allegation 3 as against the Member personally, this allegation is found proved.

### **Allegation 3 (The Firm) - Admitted and Found Proved**

For the reasons set out above in relation to allegation 3 as against the Member personally, this allegation is found proved.

### **Allegation 4 (The Firm) - Admitted and Found Proved**

For the reasons set out above in relation to allegation 2 as against the Member personally, this allegation is found proved.

### **Allegation 5 (The Firm) - Admitted and Found Proved**

For the reasons set out above in relation to allegation 4 as against the Member personally, this allegation is found proved.

## **Liability to Disciplinary Action**

Having found the allegations proved the Panel considered whether the facts found proved rendered the Member liable to disciplinary action

The Panel noted both from the documentary evidence provided by both parties, and from the two expert reports, that some of the criticisms giving rise to the complaints made to the Member by the complainants were not made out. However, it was clear that the quality of work undertaken by the Member was sub-standard, and that his complaints handling was woefully inadequate.

The Panel was particularly concerned by the Member's apparent lack of understanding of his duties to those making complaints, even after the involvement of the Ombudsman and his Regulator.

The Panel considered that the Member's acts and omissions, as admitted and found proved, demonstrated serious and persistent breaches of multiple professional standards on multiple occasions, over a prolonged period of time. In particular the Panel considered the Member had breached Rules 3, 4, 5 and 9 of the Rules of Conduct for Members 2007 and Rules 3, 4, 5, 7 and 15 of the Rules of Conduct for Firms 2007.

In the circumstances the Panel concluded that the facts as found proved rendered the Member liable to disciplinary action.

## **Sanction**

The Panel accepted the advice of the Legal Assessor. It was reminded that the primary purpose of sanctions is to protect the public and to uphold the standards and reputation of the profession, and that sanctions are not intended to be punitive (though that may be their effect). The Panel has referred to the RICS Sanctions Policy and its supplements and, as advised, has adopted a proportionate approach, considering the available sanctions in ascending order of seriousness and imposing the lowest sanction which it considers appropriate to achieve the stated purpose.

The Panel has identified the following aggravating features in this case:

- The case involved repeated and persistent breaches of the relevant Rules of Conduct over a long period in respect of multiple complaints; and,
- Those breaches have had a direct impact on clients.

The Panel identified the following mitigating features:

- The Member has made admissions to all the allegations and paid the Ombudsman Award, albeit very late in the proceedings;
- These complaints were the first complaints received by the Member. They were made at the end of a previously unblemished career of over 50 years; and,

- A compliant Complaints Handling Procedure has now been produced.

The Panel noted the sanction proposed by the parties, which was (i) a Reprimand, and (ii) a Condition not to undertake further Homebuyer or Building Surveyor reports without first completing appropriate retraining. However, the Panel has taken its own independent view as to the appropriate sanction in all the circumstances.

The Panel was concerned to ensure that the sanction imposed adequately addressed the need to protect the public, maintain public confidence and uphold standards in the profession of surveying. It was particularly concerned to consider the level of insight the Member had developed into what were manifest and multiple failings. It noted that he had now accepted and admitted those failings, albeit relatively late on in the proceedings. It also noted his expressions of sincere remorse and his apologies to RICS, the Ombudsman and most of all to the clients who were affected by his failings. Nonetheless the Panel considers the development of insight to be a continuing process and one which the Member has yet to fully complete.

In the circumstances the Panel determined that a sanction was necessary both to protect the public and to serve the wider public interest.

The Panel considered that a Caution alone would be insufficient to mark the seriousness of the breaches. However, it considered that a combination of a Reprimand and two Conditions would be sufficient to ensure that any risk to the public was addressed and would properly mark and reflect the nature and extent of the conduct rendering the Member liable to disciplinary action, so as to protect the wider public interest. The Conditions imposed by the Panel would prevent the Member from carrying out the type of work which had been the subject of the original complaints. He has now put in place an appropriate Complaints Handling Procedure to address any future complaints about any other matters. These sanctions were proportionate and would protect the public whilst enabling the Member to work towards the orderly wind-down of his practice prior to his stated intended retirement date of July 2019. The Panel gave consideration to whether a more severe sanction was necessary but concluded that, in light of the insight shown and apologies offered, a Reprimand combined with the two Conditions imposed by the Panel would be sufficient to protect the public and the wider public interest.

The Panel therefore orders that the following sanctions be imposed:

1. Reprimand

2. Conditions:

- (a) Mr Wells shall not undertake or produce any Homebuyer and/or Building Surveyor report either himself as an individual, or through his firm Rodney Wells FRICS, or through the company Tranmere Ltd, or at all.

(b) Any breach of the Condition at 2(a) will render Mr Wells liable to further disciplinary action.

### **Publication**

The Panel orders publication of the outcome of this hearing in accordance with Supplement 3 to the Sanction Policy, in Modus, and publication of this Determination on the RICS website.

### **Costs**

As part of the agreement reached between the parties, the Member agreed to pay £5,000 costs. Having carefully assessed the position against the guidance in Supplement 2 to the Sanctions Policy, the Panel is content that the sum agreed properly reflects those points the Panel should bear in mind in arriving at a figure for costs.

The Panel orders that the full amount of £5,000 is paid within 21 days of the date of the hearing.

### **Appeal Period**

Mr Wells and/or the Firm have 28 days, from the service of the notification of the decision, to appeal this decision in accordance with Rule 58 of the Disciplinary, Registration and Appeal Panel Rules.

In accordance with Rule 59 of the Disciplinary, Registration and Appeal Panel Rules, the Honorary Secretary of RICS has 28 days, from the service of the notification of the decision, to require a review of this decision.