

Disciplinary Panel Resumed Hearing

Case of

**PWC Building Control Services
KETTERING, Northants, NN14**

On

Part heard from 21-22 November 2016 (Surveyor Court, Coventry)

Resumed hearing: Monday 15, Tuesday 16, Wednesday 17 & Friday 19 January 2018

At

RICS Parliament Square, London (15, 16, 17 & 19 January)

QEII Centre, Westminster, London (17 January)

Chairman

Catherine Audcent (Lay Chair)

Members

Helen Riley (Surveyor Member)

Carolyn Tetlow (Lay Member)

Legal Assessor

Christopher Hamlet

RICS Representative

Samantha Paxman, Browne Jacobson

Firm's Representative

Sian Mirchandani – Counsel, 4 New Square Chambers

Introduction

PWC Building Control Services appear before the RICS Disciplinary Panel in connection with the following allegations:-

1. PWC Building Control Services Limited (“the Firm”) was at all relevant times regulated by the Royal Institution of Chartered Surveyors (“RICS”).
2. In or around January 2008 the Firm was retained by SCM (UK) Ltd (“SCM”) to provide building control services to in relation to the ground floor of the Times Complex, School Lane, Kettering (the “Times Complex”).
3. On 8th January 2008 the Firm issued an Initial Notice to Kettering Borough Council (the “Local Authority”) that it was acting as Approved Inspectors in respect of the ground floor of the Times Complex.
4. In providing the Initial Notice dated 8th January 2008 the Firm gave an undertaking to consult Northampton Fire and Rescue Service (“the Fire Authority”) before issuing final certification in respect of the ground floor of the Times Complex.
5. The Firm failed to properly exercise its functions as Approved Inspector for the ground floor of the Times Complex in relation to the issuing of final certification in that it:
 - a. Issued a “Completion Certificate” dated 14th January 2011 to SCM which:
 - i. was not a Final Certificate in accordance with Section 51 of the Building Act 1984 (“the Act”);
 - ii. suggested that building works had been completed;
 - iii. by reason of the matters alleged at (5)(a)(i) and/or 5(a)(ii) above, it knew or ought to have known was inaccurate and/or misleading.
 - b. Issued a “Completion Certificate” dated 14th January 2011 when the ground floor was not compliant with building regulations and/or fire safety requirements in that there was:
 - i. insufficient ventilation;
 - ii. use of non-compliant construction materials, including but not limited to gaffer tape and/or expanding foam;
 - iii. insufficient distance between one or more electrical sockets and water outlets;
 - iv. non-compliant U-values for windows and/or doors;
 - v. inadequate access for users of the building;
 - vi. poor workmanship, allowing water ingress;
 - vii. no automatic fire detection system;
 - viii. insufficient emergency lighting;

- ix. inadequate fire safety signage;
 - x. inadequate compartmentalisation to prevent fire spread;
 - xi. an absence of gas safety certification.
 - c. Failed to provide the “Completion Certificate” dated 14th January 2011 to the Local Authority;
 - d. Failed to provide any Final Certificate to the Local Authority as required by Section 51 of the Act;
 - e. Failed to consult with the Fire Authority, properly or at all, prior to issuing the “Completion Certificate” dated 14th January 2011.
6. Prior to 14th January 2011 the Firm became aware that the construction of the ground floor of the Times Complex was no longer in accordance with the Initial Notice dated 8th January 2008.
 7. Firm failed to submit an Amendment Notice to the Local Authority prior to 14th January 2011.
 8. By reason of the matters referred to in Charge 5(e), the Firm was in breach of the undertaking set out at Charge (4) in that it failed to consult with the Fire Authority prior to issuing what it intended to be final certification.
 9. By reason of the matters referred to in Charges (5) and/or (7) the Firm breached Rule 4 of RICS Rules of Conduct for Firms.
 10. By reason of the matters referred to in Charges (5)(a)(iii) and/or (8), the Firm breached Rule 3 of RICS Rules of Conduct for Firms.

Response

The Firm produced a Defence document at the outset of proceedings which set out their position on the charges. In essence, they admitted charges 1-4, subject to some factual qualifications and denied charges 5-10.

Summary

The case concerns the nature and extent of the engagement by SCM of the Firm in 2008 to provide building control services in respect of the construction of the Times Complex and whether the Firm failed in its duty as Approved Inspector as regards the issue of a Completion Certificate in the circumstances alleged.

Burden and standard of proof

The Panel received full written advice from the Legal Assessor which covered this issue. The advice highlighted that RICS is required to prove the allegations to the civil standard; that it is more likely than not that any event material to those allegations occurred. That is a single unwavering standard of proof, though the more unlikely an allegation the more cogent the evidence that the Panel might require to prove it. There is no requirement for the Firm to prove anything. The question of whether or not any facts admitted or found proved gave rise to liability to disciplinary action is a matter for the Panel's judgment.

Preliminary matters

The hearing finished part heard on 22 November 2016 after two days, having heard evidence from Mr RH and Ms KH. A case conference took place on 11 October 2017 in which the parties agreed to the matter being re-listed with up to two new panel members, on the basis that those members would familiarise themselves with the evidence by reference to transcripts taken from the first phase of the hearing.

At the resumed hearing, and in the course of submissions on the facts, the Panel heard an application on behalf of RICS to amend the charges. The amendment affected charge 5a(i) and (ii), which were effectively merged with the insertion of the word "but" and charge 6 with the insertion of the words "and/or proposed use". Both applications were consented to by the Firm and permitted by the Panel on the basis that no injustice arose.

The two charges as amended were as follows:

5a)...

- i. was not a Final Certificate in accordance with Section 51 of the Building Act 1984 ("the Act") but suggested that building works had been completed;**
- 6. Prior to 14th January 2011 the Firm became aware that the construction and/or proposed use of the ground floor of the Times Complex was no longer in accordance with the Initial Notice dated 8th January 2008.**

Evidence

The Panel has considered a significant bundle of documents, comprising material produced on behalf of RICS and the Firm. The panel heard oral evidence from witnesses called by the RICS presenting solicitor Ms Paxman, being Mr RH, then head of Development Services at Kettering Borough Council, Ms KH, the complainant in this matter and Mr JP, then employed by Northamptonshire Fire and Rescue Service. The panel also heard evidence called by Ms Mirchandani on behalf of the Firm being Mr PW, formerly a partner at the Firm and Mr LR, then an Inspector employed by the Firm.

Submissions

Ms Paxman and Ms Mirchandani gave oral submissions to the Panel on the facts which were supplemented by detailed written submissions. The panel took both into account during their deliberations.

Decision on the Charges (as amended)

- 1. PWC Building Control Services Limited (“the Firm”) was at all relevant times regulated by the Royal Institution of Chartered Surveyors (“RICS”).**

Admitted and found proved.

The Panel considered this to be an uncontroversial and non-pejorative statement of fact.

- 2. In or around January 2008 the Firm was retained by SCM (UK) Ltd (“SCM”) to provide building control services to in relation to the ground floor of the Times Complex, School Lane, Kettering (the “Times Complex”).**

Admitted and found proved.

In terms of the precise nature and extent of the instruction, the Panel noted that there was no evidence received about the detail of that instruction beyond the content of the Initial Notice itself,

dated 8 January 2008. It concluded that the wording of the Initial Notice was vague and open to interpretation. Whilst it contained explicit reference to 'commercial use' of the ground floor of the Times Complex, it was silent as to whether the work was confined to the 'shell', or extended to the 'fit out'. The Panel noted further that it had not received definitive or consistent evidence as to the definition of these terms.

The Panel further noted that on 15 January 2008, shortly after the submission of the Initial Notice, the Firm received a plan (p56 of the bundle). The Panel noted that the plan included basic amenities, including WC and kitchen in each proposed unit. It concluded that this plan was consistent with Mr PW's evidence that the Firm's instruction had at that time been confined to works to the shell of the ground floor complex of a commercial use nature. It was upon this basis that the Panel understood the term "shell" for the purposes of this case.

In light of this, the Panel could not be satisfied that the Firm's instructions extended to 'fit out' works or works concerning use as a nursery, as asserted by RICS.

- 3. On 8th January 2008 the Firm issued an Initial Notice to Kettering Borough Council (the "Local Authority") that it was acting as Approved Inspectors in respect of the ground floor of the Times Complex.**

Admitted and found proved.

The Panel considered this to be an uncontroversial and non-pejorative statement of fact.

- 4. In providing the Initial Notice dated 8th January 2008 the Firm gave an undertaking to consult Northampton Fire and Rescue Service ("the Fire Authority") before issuing final certification in respect of the ground floor of the Times Complex.**

Admitted and found proved.

The Panel considered this to be an uncontroversial and non-pejorative statement of fact, drawing upon the content of the Initial Notice.

5. The Firm failed to properly exercise its functions as Approved Inspector for the ground floor of the Times Complex in relation to the issuing of final certification in that it:

b. Issued a “Completion Certificate” dated 14th January 2011 to SCM which:

- i. was not a Final Certificate in accordance with Section 51 of the Building Act 1984 (“the Act”) but suggested that building works had been completed;**

Found proved.

The Firm readily accepted the first part of this charge – that the certificate was not a “Final Certificate” for the purposes of s51. The Firm further accepted in evidence that the purpose of the certificate was to confirm that *part* of the works to which the Initial Notice related, that is, the shell of the ground floor for commercial use (and not the remaining floors), had been completed.

The Panel therefore concluded that the charge as framed was made out on the evidence.

- ii. by reason of the matters alleged at (5)(a)(i), it knew or ought to have known was inaccurate and/or misleading.**

Found proved.

The Panel was satisfied that the certificate was inaccurate by reason of the matter alleged at 5(b)(vi) below.

In terms of the misleading element alleged, the Panel concluded that by 14 January 2011, the Firm was aware that the proposed use of the ground floor of the Times Complex no longer reflected that set out in the Initial Notice. Whilst it could not be satisfied, on the basis that the Initial Notice concerned commercial works to the shell of the ground floor of the complex, that the terms of the Completion Certificate were technically inaccurate (other than in respect of 5(b)(vi)), the Panel was

satisfied that the document had the clear potential to mislead those who saw it as to the progress of the works that were actually taking place at the Complex.

The Panel took account of the fact, in this regard, that the document was:

- called a “Completion” certificate;
- included the words “The work described above has been completed...” and “...the work is completed...”;
- very similar in form and content to a statutory s51 Final Certificate;
- made reference to regulations applicable to the issue of a Final Certificate and was signed by an “Approved Inspector”;
- provided after the Firm became aware that the works being undertaken were non-commercial in nature;
- did not specify that the ground floor works related to “commercial use”.

Alongside an awareness by the Firm that the Completion Certificate was materially similar to a s51 certificate, the Panel were mindful that there was a sequence of events leading up to its provision on 14 January 2011 that, taken together, indicated clearly to the Firm that the Initial Notice to which the certificate referred was no longer applicable to the works taking place. These include in particular:

- the telephone call from SCM to Mr PW two weeks prior, alerting him to a “..new possible tenant for the ground floor..”;
- the physical state of the complex, as reflected in photographs taken on 30 December 2010, illustrating the installation of children’s WCs;
- the inspection records for 11 and 13 January 2011, referring to “babies rooms”;
- the conversation between SCM and Mr PW between 11 and 13 January 2011 confirming that SCM “intended to use the ground floor as a Nursery”;
- the advice that was given to SCM by Mr PW that the Initial Notice “...was not for the use of the ground floor as a Nursery...”;
- the plans, showing works indicative of a Nursery layout, received by PWC on 13 January 2011 (p57) and submitted to the Fire Authority on the same day.

Further, the Panel took careful account of Mr PW's evidence that during his conversation with SCM between 11 and 13 January 2011, SCM specifically requested *final* certification for the ground floor. Whilst the Panel accepted Mr PW's account that he made it clear to SCM that he could not accede to that request, knowing the proposed use was no longer in accordance with the Initial Notice, it concluded that Mr PW knew that a Completion Certificate might be interpreted as final certification in that context – if not by SCM, by others likely to view the document as part of the development process.

The Panel took account in that regard of Mr PW's own oral evidence that he considered the purpose of the Completion Certificate to be “..like a letter of comfort [for SCM] to give their customer or perhaps their bank for the release of funds”. The Panel concluded from this that even if the status of the document had been made clear to SCM, it was recognised by Mr PW that it would likely be passed to and relied upon by others, for the purposes of confirming the completion of works undertaken at that time – thereby giving the impression of final certification.

Taking all these features into account, the Panel was satisfied that the Firm knew that the provision of this Completion Certificate was misleading.

c. Issued a “Completion Certificate” dated 14th January 2011 when the ground floor was not compliant with building regulations and/or fire safety requirements in that there was:

- i. insufficient ventilation;**
- ii. use of non-compliant construction materials, including but not limited to gaffer tape and/or expanding foam;**
- iii. insufficient distance between one or more electrical sockets and water outlets;**
- iv. non-compliant U-values for windows and/or doors;**
- v. inadequate access for users of the building;**
- vi. poor workmanship, allowing water ingress;**
- vii. no automatic fire detection system;**
- viii. insufficient emergency lighting;**

- ix. **inadequate fire safety signage;**
- x. **inadequate compartmentalisation to prevent fire spread;**
- xi. **an absence of gas safety certification.**

Not proved in relation to i, ii, iii, iv, v, vii, viii, ix x and xi.

The Panel considered each of these sub-heads individually. In considering these, the Panel bore in mind the central reliance placed by the RICS on the report of Melvyn Chambers dated 12 June 2012 in proving these charges. In the Panel's view, it was inappropriate to attach any weight to the report in determining these allegations because:

- it was prepared for civil proceedings and is not directed at the charges in question;
- it provides an opinion on the state of the complex that post-dates the point at which the Completion Certificate was issued by over a year;
- It is described as supplementary to a primary report that the Panel have not been provided;
- The author has not been called to provide oral evidence of his opinion that can be tested by the parties and the panel.

Further, the Panel considered these charges had been framed generically, such that it was unclear precisely which part of the ground floor of the complex was being referred to in each sub-head. In addition, it considered there was a range of possible criticisms directed at the Firm within each of these sub-heads and for which the precise statutory and regulatory provision was unclear.

Moreover, having made its determination in relation to charge 2, it followed that any obligations the Firm had to ensure compliance with Building Regulations and/or Fire Safety requirements was similarly confined to commercial use of the shell of the ground floor of the complex. In that context, the Panel was not persuaded that the allegations were well founded on the evidence. Having discounted the Chambers report in this respect, it considered that the evidence from Mr JP, who inspected the complex in March 2011, and PWC's inspection history (p71) were potentially pertinent to the issues at stake. However, on the detail of these particular allegations, the Panel noted that neither the evidence of Mr JP, nor the inspection records, enabled the Panel to form a clear view as to the basis for these criticisms. Mr JP was either unable to comment at all, being outwith his field of

expertise, or he was unable to support the criticisms in relation to the commercial use of the complex as a shell only.

As such, the Panel was not satisfied that the evidence called by RICS on these matters met the requisite standard of proof.

Proved in relation to vi.

By contrast, the Panel was satisfied that the water ingress around the external windows that was witnessed and described by Ms KH and Mr JP subsequent to the Completion Certificate was likely a product of poor workmanship that was present at the time that document was issued. It drew in this regard upon the observations by Mr B and Mr LR in their inspections of 11 and 13 January 2011 (p71), during which they referred, respectively, to “mastic to doors and windows” and “sealing/mastic sealing still to be done”. The Panel concluded that this defect, which was plainly evident to the Firm at that time, was a breach of Approved Document 7 (p905) even for a shell only commercial property and reflected the incomplete state of the works.

d. Failed to provide the “Completion Certificate” dated 14th January 2011 to the Local Authority;

Not proved.

The Panel took the view that since the Certificate in question did not, as a matter of fact, amount to s51 final certification, it followed that there was no obligation upon the Firm to provide it to the Local Authority as if it were. As such, the fact that the certificate was not provided, which is accepted by the Firm, cannot represent a failure.

e. Failed to provide any Final Certificate to the Local Authority as required by Section 51 of the Act;

Not proved.

Similarly, since the Firm had not undertaken all appropriate steps necessary prior to issuing final certification, in particular a consultation with the Fire Authority, the Panel concluded that it was not

open to the Firm, within the applicable regulatory framework, to provide such certification at this stage of the development. It follows that there was no 'failure' to provide it.

f. Failed to consult with the Fire Authority, properly or at all, prior to issuing the "Completion Certificate" dated 14th January 2011.

Not proved.

Again, in view of the Panel's conclusion that the Completion Certificate did not amount to s51 final certification, it followed that there was no obligation upon the Firm to consult with the Fire Authority as if it were. As such, the fact that the Fire Authority was not 'properly' consulted in accordance with a s51 certificate, which is accepted by the Firm, cannot represent a failure.

6. Prior to 14th January 2011 the Firm became aware that the construction and/or proposed use of the ground floor of the Times Complex was no longer in accordance with the Initial Notice dated 8th January 2008.

Proved.

Upon the following bases, the Panel was satisfied that the Firm became aware that the construction and proposed use of the complex was no longer in accordance with the Initial Notice:

- the telephone call from SCM to Mr PW two weeks prior, alerting him to a "...new possible tenant for the ground floor..";
- the physical state of the complex, as reflected in photographs taken on 30 December 2010, illustrating the installation of children's WCs;
- the inspection records for 11 and 13 January 2011, referring to "babies' rooms";
- the conversation between SCM and Mr PW between 11 and 13 January 2011 confirming that SCM "intended to use the ground floor as a Nursery";
- the advice that was given to SCM by Mr PW that the Initial Notice "...was not for the use of the ground floor as a Nursery...";
- the plans, showing works indicative of a Nursery layout, received by PWC on 13 January 2011 (p57) and submitted to the Fire Authority on the same day.

7. Firm failed to submit an Amendment Notice to the Local Authority prior to 14th January 2011.

Not proved.

Whilst it is accepted by the Firm that no Amendment Notice was submitted to the Local Authority, the Panel was not satisfied that there was a failure to do so in the circumstances. The Panel concluded that by the time the Firm became aware of the works that had been undertaken to the ground floor towards its use as a Nursery, the works had, on balance, gone beyond the 'tipping point' whereby an Amendment Notice was legally possible, even if SCM had been minded to submit one. The Panel noted the evidence that the correct procedure at that stage would have been a regularisation application.

8. By reason of the matters referred to in Charge 5(e), the Firm was in breach of the undertaking set out at Charge (4) in that it failed to consult with the Fire Authority prior to issuing what it intended to be final certification.

Not proved.

In circumstances whereby the Panel had concluded that s51 compliant final certification had not been issued, it followed that there was no obligation upon the Firm to consult with the Fire Authority as alleged.

9. By reason of the matters referred to in Charges (5) and/or (7) the Firm breached Rule 4 of RICS Rules of Conduct for Firms.

Proved in relation to (5).

Not proved in relation to (7).

The Panel was satisfied that the conduct found proved in relation to 5(a)(ii) and 5(b)(vi) demonstrated a clear breach of Rule 4. The issuing of a Completion Certificate, particularly in the knowledge that it was misleading, was conduct plainly lacking in care and diligence. The certificate further confirmed that the work “complies reasonably” with the requirements of the Building Regulations when, in respect of 5(b)(vi), it evidently did not.

It follows from the Panel’s decision in relation to charge 7 that the associated criticism here falls away.

10. By reason of the matters referred to in Charges (5)(a)(ii) and/or (8), the Firm breached Rule 3 of RICS Rules of Conduct for Firms.

Proved in relation to (5)(a)(ii)

Not proved in relation to (8)

The Panel was satisfied that the issuing of a Completion Certificate in the circumstances found proved had the effect of providing false comfort to those who were likely to have seen and relied upon it. The Panel concluded that this does not meet the requirements of the Rules of Conduct for Firms to act at all times with integrity and avoid any actions or situations that are inconsistent with its professional obligations.

It follows from the Panel’s decision in relation to charge 8 that the associated criticism here falls away.

Liability to disciplinary action

The Panel received further submissions from the parties on this issue. Ms Paxman referred the Panel to the relevant provisions of Bye-Law 5.3.2 in particular that the conduct proved had a tendency to bring the reputation of the profession into disrepute and represented serious professional misconduct.

Ms Mirchandani stated that careful consideration should be taken as to whether the conduct proved represented a significant departure from the Rules. She highlighted that the surveyor concerned had retired and the practice of issuing Completion Certificates in question had ceased. Ms Mirchandani reminded the Panel of the context in which the Completion Certificate was issued and questioned whether, in that context, the Firm's role warranted a finding of liability to disciplinary action.

The Panel took careful account of these submissions. In addition, it accepted the advice of the legal assessor that the decision is one for the Panel's independent judgment, drawing upon the facts found proved; that a finding of fact does not automatically lead to liability to disciplinary action; and that account must be taken of the seriousness of the conduct and the context in which it occurred.

The Panel concluded that the charges proved in this case amounted to serious misconduct that breached all three elements of Bye-Law 5.3.2. In particular, the Panel was concerned that the Firm had provided this most important document in the knowledge that it was misleading – both in the sense that it suggested the works in question had been completed when they had not and because it was likely to be taken and relied upon as a final certification when it was not.

Decision as to sanction

The Panel heard further submissions from the parties as to sanction. The Panel bore in mind that the purpose of sanctions is not to be punitive, though that may be their effect. The purpose of sanctions is to declare and uphold the standards of the profession, to safeguard the reputation of the profession and of the RICS as its regulator and to protect the public. Sanctions must be proportionate to the matters found proved.

The Panel paid careful heed to the advice of the legal assessor (delivered in open forum), and to the indicative sanctions guidance of the RICS. It considered carefully the mitigating and aggravating factors of this case.

The Panel considered that the following aggravating factors were present:

- The Firm was reckless as to the consequences of providing a misleading document
- There was a potential risk of loss to consumers as a result

The Panel considered that the following mitigating factors were present:

- The conduct charged was isolated
- The conduct has been remedied with the cessation of the use of Completion Certificates
- The individual who produced and signed the certificate, Mr PW, has left the Firm and no longer has any financial interest in it
- The Firm has fully cooperated with RICS and engaged with the disciplinary process
- The Firm has no other disciplinary history

The Panel considered the matters too serious for no sanction to be imposed. The misconduct was isolated, has already been remedied, has not been repeated and is considered unlikely to be repeated. However, the misconduct was not minor and was considered too serious for a Caution. By contrast, a Reprimand, which is to be considered where there has been a risk of harm, was appropriate and proportionate to the wrongdoing in this case.

The Panel went on to give careful consideration to the imposition of a fine in view of the gravity of the wrongdoing. However, it concluded that this would serve a purely punitive function, which would impact upon individuals in the Firm who had no responsibility for the misconduct. In view of this and the mitigation outlined above, a fine was considered unwarranted and disproportionate. The public interest, it concluded, would be adequately served by marking the wrongdoing by way of a Reprimand alone.

The Panel further considered a requirement for the Firm to provide Undertakings or be subject to Conditions was unnecessary and disproportionate in view of the steps already taken by it to rectify the matters of concern.

Accordingly, the Panel orders a Reprimand.

Publication

The Panel considered the guidance as to publication of its decisions. It accepted the legal assessor's advice. The advice was, and the guidance provides, that it is usual for the decisions of the Panel to be posted on the RICS website, and published in Modus. Ms Mirchandani's primary position was that publication was unnecessary because the Firm was now in different hands, the matter had been corrected and the Surveyor in question was no longer working there. She

submitted that if the Panel disagreed, it should consider adopting a form of words for publication that was agreed between the parties.

The Panel saw no reason for departing from the normal practice of publication in this case, but was content to adopt the words agreed between the parties on the basis that they fairly reflected a summary of the issues of concern and sanction imposed, and were similar in form to the RICS summary of previous decisions. 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.

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

The wording in Modus, and the summary on the website, shall be as follows:

The Panel heard a case against PWC for issuing a completion certificate on 14 January 2011 which was found to be contrary to Rules 3 and 4 of the Rules of Conduct for Firms 2007. The Panel imposed a Reprimand and ordered a contribution towards costs.

Costs

Both parties addressed the Panel regarding costs. The RICS presenting solicitor asked for costs, and had provided a schedule to the Firm in advance of the hearing, albeit a schedule that was conceded to be materially inaccurate. On behalf of the Firm, Ms Mirchandani highlighted that a significant proportion of the time spent in the hearing was focused on charges which lacked particularisation and/or were ultimately not proved and in dealing with evidence upon which no substantive weight was placed. She submitted it followed that the Panel's approach to the level of RICS' costs that was "fair and reasonable" to award must take account of that 'wasted' time.

The Panel considered carefully the costs sought and the submissions made thereto. It concluded that it was fair to make a costs order in this case in the sum of £20,000. Whilst the amount sought by RICS was higher than this, the figure was reached in recognition of the fact that at least some of the hearing time was devoted to dealing with evidence upon which the charges were not proved and/or evidence upon which no substantive weight was attached. Whilst it is generally reasonable for RICS to pursue charges that ultimately are not proved, without incurring costs penalties, the Panel concluded in this case that RICS did have opportunities to amend or withdraw charges upon which the evidence was lacking and this contributed to the time spent.

The Panel orders that the Firm pay to RICS costs of £20,000.

Appeal Period

The Firm may appeal against this decision within 28 days of notification of this decision, in accordance with Rules 59- 70.

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