NRCPD
Together, towards unlimited inclusion for d/Deaf* and deafblind people.

Appeal Determination (PUBLIC)

Appellant	Darren Neil Adams
Registration number	1018172
Case references	166, 170 and 171
Appeal hearing	9 and 11 September 2026
Venue	Remote hearing
Outcome	Leave to appeal granted on Ground 1; substantive appeal dismissed.
Date of determination	16 September 2026

APPROVED BY THE PANEL

THIS IS A PUBLIC VERSION OF THIS DETERMINATION.

Areas deemed private have been removed from this public determination and either:

- marked [PRIVATE]; or
- where applicable, the **[words in square brackets and in bold]** have been inserted to maintain readability

Introduction and attendees

1. This is the decision of the NRCPD Appeal Committee on the appeal brought by Mr Darren Neil Adams under paragraph 113 of the NRCPD Professional Conduct Complaints Procedure, version 3.1 (January 2025) ('the Procedure'). The appeal concerns the three combined matters numbered 166, 170 and 171.

2. The appeal was heard remotely and in private on 9 and 11 September 2026. Mr Adams represented himself. Mr Tim Naylor, counsel, represented the NRCPD. Teams of BSL/English interpreters for the panel as well as separate BSL/English interpreters whose only modality was BSL to English on behalf of Mr Adams, speech-to-text reporters and the Hearings Coordinator supported the hearing.

3. The Appeal Committee members were Unyime Davies, Chair, Stephen Brattan-Wilson and Andrew Hyde. Abimbola Johnson, Legal Assessor, advised the Appeal Committee on the law.

4. The Appeal Committee did not receive oral evidence during the appeal. Mr Adams and Mr Naylor made submissions, which are arguments rather than evidence. The Appeal Committee asked questions to clarify those arguments and to identify relevant material already in the case record. No one applied to introduce fresh evidence, and the Appeal Committee did not admit any.

Procedural history

5. The appeal was first listed for 30 and 31 March 2026. On 17 February 2026, Mr Adams applied to postpone [PRIVATE]. The March dates were cancelled, and the Appeal Committee directed the parties to provide further information and written submissions.

6. On 17 April 2026, Mr Adams applied to postpone the appeal for between eight and twelve months. The NRCPD opposed the application. In a written decision dated 30 April 2026, this Committee refused it. The Appeal Committee found that the information provided did not justify such a long postponement and directed that the appeal be relisted on the next available dates.

7. The appeal was then listed for 9 and 11 September 2026.

[PRIVATE].

8. [PRIVATE].

9. [PRIVATE].

10. [PRIVATE].

11. [PRIVATE].

12. [PRIVATE].

Documents and material considered

13. At the start of the hearing, the Chair gave the documents the following exhibit numbers. Exhibit 13 was added when the hearing resumed on 11 September 2026.

Exhibit	Document
1A–1D	Transcripts of the original hearing: Days 1, 2, 3 and 5
2A	Original facts determination
2B	Original impairment and sanction determination
3	Original final hearing bundle
4	Registrant's final bundle at the original hearing
5	NRCPD opening note at the original hearing
6	Registrant's skeleton argument dated 6 October 2025
7	NRCPD submissions on sanction at the original hearing
8	Grounds of Appeal dated 24 November 2025
9	Respondent's skeleton argument
10	Independent Registrar's decision dated 5 December 2025
11	Mr Adams's email dated 27 August 2026
12	Appeal Committee adjournment decision dated 30 April 2026
13	Document entitled '**[The Expert's]** Evidence' written by the original panel defining the limits of her remit

Nature and scope of the appeal

14. On 24 November 2025, Mr Adams had a barrister who submitted two proposed grounds of appeal:

a. Ground 1 alleged an error of law and/or procedural unfairness in the original Committee's treatment of **[expert]** evidence and its approach to current impairment.

b. Ground 2 alleged that removal from the Register was disproportionate and excessive.

15. On 5 December 2025, the Independent Registrar confirmed that the appeal had been made in time and was sufficiently specific. The Registrar accepted Ground 1 because it could be treated as a complaint about 'procedural matters' under paragraph 114(a) of the Procedure. Ground 2 was not accepted because paragraph 114 did not allow an appeal simply on the basis that a sanction was disproportionate. A possible new-evidence ground relating to [PRIVATE] was also not accepted because it had not been explained.

16. The appeal was therefore accepted only in relation to Ground 1. Under paragraph 115 of the Procedure, this did not mean that Ground 1 had been proved. Paragraph 126 required the Appeal Committee to determine for itself whether the ground was both allowed by the Procedure and reasonably arguable before granting permission to appeal i.e. giving leave to appeal.

Decision on leave to appeal

17. Mr Adams relied on the written Grounds prepared on his behalf. He explained his concerns about the limits of **[the expert's]** role, the use made of her reports and the original Committee's assessment of impairment. During his initial submissions, Mr Adams referred to what he first described as a report by **[a second expert]**. The Appeal Committee did not have that report, and Mr Adams had not applied to introduce it as new evidence. He later explained that he meant a summary sent by email through lawyers acting for him in unrelated matters. Neither the report nor the summary was before the Appeal Committee, and the status of that material was unclear. The Appeal Committee therefore determined the application for permission to appeal under paragraph 114(a), using only the existing evidence.

18. Mr Naylor said that Ground 1 made three related allegations. These were that the original Committee considered itself unable, because it lacked [PRIVATE] expertise, to examine or qualify **[the expert's]** views about what might happen in the future; allowed her opinions to overlap with decisions that the original Committee had to make; and treated her uncontradicted opinion as a starting point from which it could depart only for 'very strong grounds'. He submitted that there was no reasonably arguable error.

19. The Legal Assessor advised that, although the Independent Registrar had accepted Ground 1 at the administrative stage, paragraph 126 required the Appeal Committee to decide for itself whether the ground was allowed by the Procedure and reasonably "arguable."

20. 'Arguable' meant a realistic case that was clearly explained and supported by the existing record. Mr Adams did not have to prove Ground 1 at this stage, and the Appeal Committee had to avoid deciding the merits in advance. The written ground raised three related complaints: that questioning about parts of the expert evidence had been restricted, but the original Committee later relied on the lack of challenge; that one expert opinion was treated as requiring 'very strong grounds' before it could be rejected; and that the expert evidence about cause and likely future effects may have been misstated or incompletely considered. The Legal Assessor also referred to paragraphs 114(a) and 114(b). As the Appeal Committee did not have the material linked to **[the second expert]** and Mr Adams had not applied to introduce new evidence, it considered permission to appeal under paragraph 114(a) only.

21. The Appeal Committee considered Mr Adams's initial submissions and written grounds, the NRCPD's response, the relevant documents and the legal advice. It decided that Ground 1 was allowed by paragraph 114(a) and was reasonably arguable. It determined that the original determination stated that, although the original Committee was not bound by **[the expert's]** opinion, it would need 'very strong grounds' to depart from or disregard it. It was reasonably arguable that these words treated the opinion of one expert as presumed to be correct or restricted the original Committee's own judgment. This argument was based on the wording of the determination itself. At this stage, the Appeal Committee did not decide whether the argument was correct when the determination was read as a whole, whether the expert evidence had in fact been decisive, or whether any error had affected the decision on current impairment. Those questions were left for the substantive appeal.

22. The Appeal Committee therefore gave permission to appeal on Ground 1.

Background to the original proceedings

The consolidated complaints and findings

23. The original Committee considered three complaints together. Case 166 arose from a telephone conversation between Mr Adams and an NRCPD member of staff. The original Committee found that Mr Adams **[made a concerning statement about his own welfare]**; spoke in an aggressive tone; caused distress; and acted in a way that was incompatible with expected professional standards.

24. Case 171 arose from Mr Adams's work as a BSL/English interpreter in family proceedings at Croydon County Court involving vulnerable adults. The original Committee found that he had made dishonest statements about the length of his court experience and the number of assessments he had completed. It also found that his interpretation was ineffective,

inaccurate and at times not understandable; that he had shown some disrespect towards colleagues; and that he had been unable to manage the demands of the legal setting.

25. Case 170 arose from Mr Adams's work in court and at a hospital in Manchester. Mr Adams argued that his use of International Sign meant that the work fell outside the NRCPD's regulation. The original Committee rejected that argument. It found that he had accepted and carried out a complex assignment in breach of restrictions on his practice, had failed to arrange a suitable team of interpreters or allow others to observe the interpretation, and had worked alone in court and at the hospital.

26. Those finding were not challenged by Ground 1 and therefore formed the factual starting point for determining whether the original Committee's treatment of **[the expert's]** evidence had affected its decision on impairment.

*[**The expert's**] evidence and the scope note*

27. The original hearing bundle contained two reports by **[an expert]**. During its preparation for the hearing, the original Committee became concerned that some parts of the reports appeared to go beyond her [PRIVATE] expertise. The original Committee therefore sought legal advice in open session and circulated a short written note to the advocates.

28. The note, which became Exhibit 13 in this appeal, explained which matters the original Committee considered to be outside **[the expert's]** role or for the original Committee itself to decide. It said that counsel did not need to question her about those matters. They included opinions about insight into the communication demands of the case; the interpreter's role and breaches of standards; readiness or resilience to manage practice; whether Mr Adams met the required standards; behaviour inconsistent with those standards; serious concerns; and the need for regulatory safeguards.

29. The original determination stated that **[the expert]** would not be questioned about the matters listed in the note. She was otherwise treated as a witness called by the original Committee, and both advocates could question her about her other opinions. Neither party in the original hearing suggested that the reports, or all her opinions, were inadmissible. The complete reports therefore remained before the original Committee.

The original impairment and sanction decisions

30. The original Committee stated that it had to assess impairment as at the date of its decision. It considered the past conduct, the risk that it would happen again and the need to maintain public confidence. It identified six features of Mr Adams's conduct that were areas of concern. These included: a lack of transparency; an unwillingness to be accountable or work with

colleagues; an unwillingness to meet professional standards; resistance to professional views that differed from his own; and a tendency to attribute different views to hostility or bad faith.

31. From the facts and Mr Adams's evidence, the original Committee found a fundamental and current lack of insight. It found no reason to think that the attitudes and behaviour would not happen again if he worked independently. It also found no meaningful remediation, meaning steps taken to address the more serious concerns. [PRIVATE].

32. [PRIVATE]. The original Committee said that it did not have the [PRIVATE] expertise to challenge the detail of the **[expert]** evidence. It continued:

> *"It follows, therefore, that whilst not bound by the opinions expressed by* **[the expert]***, the panel would need to identify very strong grounds for departing from, or acting in disregard of, those opinions; especially where the conclusions reached were not the subject of direct challenge in cross-examination."*

33. The original Committee found that the misconduct was a significant departure from professional standards and that Mr Adams was not currently suited to working independently. It found that his fitness to practise was impaired at that time.

34. When deciding the sanction, the original Committee considered each available option, starting with the least restrictive. It found that conditions would not be workable or sufficient. It also found that suspension would be neither proportionate nor effective. It reached these conclusions because of the nature of the departures from professional standards, the risks, the dishonesty, the settled attitudes it had identified and the current lack of insight. It directed that Mr Adams be permanently removed from the Register.

Mr Adams's case on Ground 1

Written case

35. Mr Adams relied on the Grounds of Appeal prepared by his former counsel. His main submission was that a finding of misconduct did not automatically mean that his fitness to practise remained impaired. His Grounds relied on *Cohen v General Medical Council [2008] EWHC 581 (Admin).* They said that the original Committee had to consider whether the conduct could be addressed, whether it had been addressed and how likely it was to happen again. They referred to Council for the *Regulation of Health Care Professionals v General Medical Council and Ruscillo [2004] EWCA Civ 1356* for the wider regulatory context. They also submitted that the original Committee, rather than an expert, had to decide impairment.

36. The written Grounds alleged three related errors. First, the original Committee treated itself as unable to examine or qualify expert views about what might happen in the future, even where those views overlapped with the original Committee's own role. Secondly, it treated one uncontradicted opinion as the starting point and required 'very strong grounds' to depart from it. Thirdly, it relied on the lack of direct challenge even though it had told the advocates that they did not need to question **[the expert]** about specified matters outside her role.

37. The Grounds submitted that the original Committee did not properly consider Mr Adams's **[personal circumstances]** when assessing the steps he had taken to address the concerns and the risk of the conduct happening again. They argued that [PRIVATE], the original Committee still had to consider how his conditions affected his ability to address **[those circumstances]** and whether mentoring, reasonable adjustments or structured practice could reduce the risk.

Oral submissions

38. In his oral submissions, Mr Adams said that he accepted the original hearing's findings or outcome and was not trying to reopen the factual case. He maintained Ground 1 and asked the Appeal Committee to examine how the original Committee had used **[the expert's]** information, the test it had applied and whether it had properly considered the steps taken to address the concerns.

39. Mr Adams submitted that **[the expert's]** proper role was **[limited to matters within her professional expertise and arrangements for his participation in the hearing].** He said that parts of her reports addressed professional standards, insight, safeguarding and readiness to practise. Those were matters for the original Committee to decide. However, he submitted that its decisions on impairment and sanction reached the same conclusions in very similar language.

40. Mr Adams compared Exhibit 13 with the original Committee's determinations and relied on four groups of passages:

    (a) Professional standards: the scope note excluded **[the expert's]** opinions about breaches of professional standards, conduct inconsistent with those standards and failure to meet them. Mr Adams pointed out that the facts, impairment and sanction decisions used the expressions 'departure from standards', 'unwillingness to conform', 'material departure' and 'fundamental departures from professional standards'.

    (b) Insight: the scope note said that **[the expert's]** opinion about Mr Adams lacking insight into the communication demands of the case was outside her role. Mr Adams pointed

out that the impairment decision found a 'fundamental and current lack of insight' and that the sanction decision relied on the 'present absence of insight' when rejecting suspension.

(c) Safeguarding: the scope note excluded **[the expert's]** opinions that Mr Adams's behaviour raised serious concerns and showed a need for regulatory safeguards. The impairment decision expressly referred to her view about [PRIVATE] and then to safeguarding [PRIVATE]

(d) Readiness to practise: the scope note excluded **[the expert's]** opinion that Mr Adams had not developed the required readiness or resilience. The impairment decision referred to his inability to adjust or control his conduct, the risk of it happening again in independent practice and his lack of suitability for independent practice.

41. Mr Adams submitted that this overlap was meaningful, rather than a coincidence, and showed that the original Committee had relied on excluded opinions. He accepted that **[the expert]** was a professional who had been asked to assist and that the original Committee did not have [PRIVATE] expertise. However, he submitted that it still had to examine the basis and reasoning of her opinions instead of accepting them because of her professional status or because there was no competing expert evidence.

42. [PRIVATE].

43. [PRIVATE].

44. Mr Adams referred to [PRIVATE] professional supervision, continuing professional development and training. He also described his willingness to return to practice gradually with support or restrictions. He said that his current circumstances and insight were materially different. He did not provide the underlying reports or other evidence and did not apply to introduce fresh evidence. The Appeal Committee treated that matter as submissions only. In the absence of admitted supporting evidence, it could not treat them as evidence when determining Ground 1. It could not treat them as evidence when deciding the accepted appeal.

The NRCPD's response

45. Mr Naylor relied on the Respondent's Skeleton Argument and added oral submissions. He argued that the original Committee had made no legal or procedural error. It had received proper legal advice, understood that it had to make the final decisions and clearly explained what it did and did not take into account.

46. The NRCPD did not dispute the general legal principles drawn from *Cohen*. Mr Naylor submitted that *Ruscillo* concerned a regulator's appeal against a sanction said to be too

lenient and did not decide the expert-evidence issue in this appeal. He emphasised that the factual findings, including dishonesty, were not challenged.

47. Mr Naylor said that [PRIVATE]…The Chair of the original Committee prepared the scope note after discussing it with both advocates. The note prevented **[the expert]** from deciding the allegations, professional standards and other matters reserved for the original Committee. It still allowed **[the expert]** to give relevant **[expert]** evidence **[relating to Mr Adams' personal circumstances.]**

48. Mr Naylor said that the NRCPD had itself raised the need to exclude **[the expert's]** opinions about the facts and did not rely on them. No one applied to exclude either report, in whole or in part, or asked the original Committee to recuse themselves. **[The expert]** was treated as a witness called by the original Committee. Both advocates could question her, and the original Committee asked its own questions to test the reports and assessment.

49. Mr Naylor submitted that those limits did not prevent the original Committee from considering relevant **[expert]** evidence at the impairment stage. This included evidence about whether [PRIVATE] contributed to the conduct, whether Mr Adams understood or had addressed the difficulties, what support was available and whether the conduct might happen again.

50. Mr Naylor submitted that the impairment decision showed the original Committee's own reasoning. It began with the serious factual findings and identified six features of Mr Adams's conduct. It then assessed his evidence, insight and the risk of repetition before referring to **[the expert]**. He submitted that those finding were capable of being made independently [PRIVATE].

51. Mr Naylor submitted that similar language in **[the expert's]** reports and the determinations did not prove that the original Committee had relied on an excluded opinion. Expressions such as standards, insight, safeguarding and independent practice were part of the original Committee's own assessment. It had not adopted **[the expert's]** view about whether the allegations were proved.

52. On the words 'very strong grounds', Mr Naylor relied on the original Committee's express statement that it was not bound by **[the expert's]** opinions. He submitted that the words described the weight given to [PRIVATE] opinions that had not been directly challenged, when there was no competing expert evidence and the original Committee had itself tested the evidence. They did not create a legal test or transfer the original Committee's decision-making role to the expert.

53. On whether any error made a difference, Mr Naylor submitted that the impairment finding did not depend on the disputed words or any excluded opinion. Even without **[the expert's]**

evidence, it was supported by the serious factual findings, Mr Adams's evidence, the original Committee's assessment of insight and its finding that the conduct might happen again. There was no evidence before the original Committee of sufficient steps to address the concerns or suitable support.

54. Mr Naylor accepted that some of Mr Adams's current submissions appeared to show greater insight. However, he argued that counselling, training, support and proposed return-to-practice arrangements after the original decision fell outside Ground 1. They could not be used to reassess present impairment. He submitted that the original sanction remained appropriate and asked the Appeal Committee to dismiss the appeal.

Legal advice

Scope, burden and standard

55. The Legal Assessor advised that paragraph 120 placed the burden on Mr Adams to prove Ground 1 on the balance of probabilities. In other words, he had to show that it was more likely than not that the ground was made out. Under paragraphs 127 and 128, the Appeal Committee had to review only those parts of the original proceedings that related to the accepted ground. It was not conducting a new hearing and had no power to order one.

56. The question was not what decision this Committee would have made if it had heard the original case. It had to decide whether the original Committee had made the alleged error and, if so, whether the error was material. An error was material if it affected, or could have realistically affected, the original Committee's reasoning or outcome. The Appeal Committee had to read the original determination fairly and as a whole.

Fresh evidence and the record on appeal

57. During the course of the hearing, the Legal Assessor explained the difference between submissions and evidence. The Appeal Committee could ask questions to clarify the parties' arguments and find passages in the existing record, but its questions could not be used as a means of introducing fresh evidence outside of the applicable procedure. Later [PRIVATE] steps to address the concerns, support or other developments after the original decision had not been admitted as evidence. They could not be used to carry out a new assessment of impairment or sanction.

58. Similarly, an argument that later information might have caused **[the expert]** to express a different opinion was not evidence of what she would actually have concluded. Before considering further evidence, the Appeal Committee would have had to decide whether to admit it and how it could be tested fairly.

Impairment and expert evidence

59. The Legal Assessor advised that the original Committee had needed to decide whether Mr Adams's fitness to practise was impaired at the time of its decision. **[Expert]** evidence could help the original Committee but could not make that decision for it. The original Committee had to consider all the evidence, including the nature and seriousness of the misconduct, Mr Adams's insight, the steps taken to address the concerns, the risk of the conduct happening again, public protection, professional standards and public confidence.

60. The Legal Assessor referred to *Cohen v General Medical Council [2008] EWHC 581 (Admin).* Cohen identifies the questions whether the conduct can be addressed, whether it has been addressed and whether it is highly unlikely to happen again. The *NRCPD Guidance for Decision Makers on Assessing Evidence* was also relevant. Paragraph 3.5 concerns the assessment of expert evidence, and paragraph 4.1 requires the evidence to be considered as a whole. Ruscillo gave wider regulatory context but did not decide how the expert evidence should be treated in this appeal.

61. The Legal Assessor referred to *TUI UK Ltd v Griffiths [2023] UKSC 48.* At paragraphs 36–39, the Supreme Court there explained that an expert helps with matters outside the decision-maker's expertise but must not take over the decision-maker's role. The decision-maker must still assess whether the opinion is adequately reasoned and persuasive. The strength of its reasoning and factual basis matters, not simply the expert's conclusion.

62. Paragraphs 42–43 and 70 of *TUI* describe the general rule that a party who wants a tribunal to reject important evidence should usually challenge the witness so that the witness can answer the criticism. The rule is flexible, and its purpose is to ensure overall fairness. Paragraphs 61–68 give examples of exceptions. Paragraph 69 confirms that a lack of cross-examination does not force the decision-maker to accept the evidence.

63. The Legal Assessor advised that *TUI* did not create a legal test requiring 'very strong grounds' before an expert opinion could be rejected. A lack of direct challenge could affect fairness and the weight given to the evidence. It did not make the evidence binding or remove the original Committee's duty to consider the expert's reasoning, the facts supporting it, the limits of the expert's knowledge and the permitted scope of the opinion.

Questions arising on Ground 1

64. The Legal Assessor advised the Appeal Committee to answer the following questions:

    a. When the original decision was read fairly and as a whole, did 'very strong grounds' describe the proper weight given to well-reasoned **[expert]** evidence? Or did the words

create an improperly high threshold or presumption that restricted the original Committee's judgment?

b. Did the original Committee treat the lack of direct cross-examination as acceptance of **[the expert's]** opinions? Did it place a burden on Mr Adams to disprove them or otherwise restrict its own judgment?

c. Were any of **[the expert's]** opinions important to the original Committee's reasoning?

d. For each important opinion, was it within **[the expert's]** expertise and the role allowed by the original Committee? Was it supported by identified facts and clear reasoning? Was it a**[n expert opinion]** rather than a final regulatory decision?

e. What reasoning did the original Committee actually use? Similar wording alone did not prove reliance. Did a conclusion come from **[the expert's]** opinion, the proven facts, Mr Adams's evidence, other evidence or the original Committee's own assessment?

f. Were any opinions on which the original Committee relied unfairly described as 'unchallenged'? The lack of a competing expert did not necessarily mean that no one had challenged the assumptions, method, factual basis or limits of **[the expert's]** opinion.

g. What was the effect of the scope note? If counsel were told that they did not need to explore a matter because it was outside the expert's role, would it be fair to give that opinion more weight because no questions had been asked about it?

h. Did the original Committee make its own assessment of impairment, including Mr Adams's insight, the steps taken to address the concerns, the risk of recurrence, public protection and public confidence?

i. If there was an error, did it affect, or could it realistically have affected, the impairment decision?

65. If there was no material error, the Appeal Committee should dismiss Ground 1. If there was a material error, the Appeal Committee should disregard the mistaken approach or any opinion that should not have been used. It should then decide whether the original Committee's remaining lawful reasons still supported the impairment finding. It should not create a new case for the original Committee or replace its reasoning with the Appeal Committee's preferred reasoning.

Remedies under paragraph 131

66. The Legal Assessor explained that paragraph 131, read with paragraphs 114, 127 and 128, set out the Appeal Committee's powers after deciding an appeal. The advice was that these provisions allowed the Appeal Committee to review the sanction imposed on Mr Adams even

if Ground 1 failed. Any review had to be based on the material and submissions that were before the original Committee at the time.

67. The parties were invited to comment on or correct the legal advice. The Appeal Committee was reminded that the advice did not decide any disputed fact or the merits of Ground 1. The Appeal Committee accepted the advice and retired to make its decision.

The Appeal Committee's decision and reasons

68. After considering the accepted ground, the parties' submissions and the legal advice, the Appeal Committee identified the following issues:

    a. the meaning and effect of the 'very strong grounds' passage;

    b. which of **[the expert's]** opinions were important to the original Committee's reasoning;

    c. whether those opinions were within her expertise and the permitted scope of her role;

    d. whether those opinions had in fact been challenged and whether the lack of challenge was fairly relied on;

    e. whether the original Committee independently assessed current impairment;

    f. whether any error was material; and

    g. what order, if any, the Appeal Committee could make under paragraph 131.

69. In determining those issues, the Appeal Committee considered the parties' written and oral submissions, the original Committee's determinations, the relevant hearing transcripts, **[the expert's]** reports, Exhibit 13 and the other documents before it. The Appeal Committee accepted and followed the Legal Assessor's advice.

Meaning and effect of "very strong grounds"

70. The Appeal Committee carefully considered the following passage from the impairment determination:

> *"The panel does not possess the [PRIVATE] expertise to challenge the detail of the **[expert]** evidence which has been provided. It follows, therefore, that whilst not bound by the opinions expressed by* **[the expert]***, the panel would need to identify very strong grounds for departing from, or acting in disregard of, those opinions; especially where the conclusions reached were not the subject of direct challenge in cross-examination."*

71. The Appeal Committee found that the words 'very strong grounds' were unfortunate and unnecessary. If read alone, they could suggest that the original Committee had applied a

higher legal test or assumed that it had to accept **[the expert's]** opinions. There is no such legal test.

72. However, the Appeal Committee did not consider the words on their own. It read the impairment determination fairly and as a whole, including the reasoning before and after that passage.

73. The original Committee expressly stated that it was 'not bound' by **[the expert's]** opinions. In context, the Appeal Committee concluded that the phrase 'very strong grounds' reflected the weight which the original Committee considered proper or appropriate to [PRIVATE] evidence falling within **[the expert's]** expertise and not contradicted by competing expert evidence. It did not mean that her evidence had to be accepted or that a particular threshold had to be met before it could be rejected.

74. There was no indication that the original Committee required Mr Adams to disprove **[the expert's]** conclusions, considered itself legally bound to accept them or allowed her to decide impairment. The words did not create a presumption in her favour or improperly restrict the original Committee's judgment.

Scope and use of **[the expert's]** opinions

75. Before questioning **[the expert's]**, the original Committee prepared and circulated Exhibit 13. It identified the parts of her reports that the original Committee considered to be outside her expertise or for the original Committee itself to decide. The parties were told that they did not need to question her about those matters.

76. The Appeal Committee considered Exhibit 13 to be important evidence of the original Committee's approach. It showed that the original Committee had carefully considered the limits of **[the expert's]** expertise and understood the difference between:

    a. **[expert evidence on matters falling within her professional expertise];** and

    b. decisions about professional standards, regulatory insight, readiness or suitability for independent practice, the need for regulatory safeguards and the final question of impairment. These decisions were reserved to the original Committee.

77. The original Committee prepared Exhibit 13 before questioning **[the expert]**, after receiving legal advice and discussing the matter with the advocates. The Appeal Committee regarded this as evidence that the original Committee understood that the regulatory decisions were for it, rather than **[the expert]** to make.

78. Mr Adams identified several passages which, he argued, showed that the original Committee had later crossed those boundaries. The Appeal Committee considered each area in turn:

Professional standards

79. The Appeal Committee did not accept that the original Committee's use of expressions such as 'departure from professional standards', 'material departure' or 'fundamental departures from professional standards' showed that it had relied on **[the expert's]** excluded opinions. Those were regulatory judgments for the original Committee itself. It based them on its factual findings, including dishonesty and misrepresentation, and its assessment of the seriousness and extent of the conduct.

80. The presence of similar language in **[the expert's]** report did not, without more, establish that the original Committee had adopted her opinions. The Appeal Committee noted that the expressions in referred to are commonly used in decision making. The original Committee's determination set out separate reasons, founded on the factual findings for its conclusions on professional standards.

Insight

81. The Appeal Committee found that the original Committee had reached its own decision about insight. Before referring to **[the expert's]** evidence, it identified six features from its factual findings. These included a lack of transparency; an unwillingness to be accountable to or work with colleagues; an unwillingness to meet professional expectations; an unwillingness to recognise a professional view that differed from Mr Adams's own; and a tendency to attribute different views to antagonism, hostility or bad faith.

82. The original Committee then assessed Mr Adams's evidence and the way he presented his case. It expressly recognised his right to deny and challenge the allegations and said that it drew no adverse conclusion simply because he had done so. However, it found from the content of his evidence that he showed 'a fundamental and current lack of insight' into the seriousness of his colleagues' concerns and their reasons for raising them.

83. The original Committee reached and explained that conclusion before considering **[the expert's]** evidence. It did not cite her excluded opinion about insight as the basis for its finding. The Appeal Committee therefore found that the original Committee's conclusion on insight was its own and not derived from **[the expert's]** excluded opinion on that subject.

Safeguarding and emotional safety

84. The Appeal Committee distinguished between **[the expert's]** observations about [PRIVATE], and the regulatory decision about whether safeguards were needed. Her **[expert]**

observations could assist the original Committee if they were within her expertise. The original Committee itself had to make the regulatory decision.

85. The original Committee specifically recorded that the [PRIVATE] concerns related both to Mr Adams' [PRIVATE] and to the [PRIVATE] people who might receive his services. It did not ask **[the expert]** to decide which regulatory safeguards should be imposed and did not adopt her excluded opinion about the need for them. It reached its own conclusions about public protection and impairment by reference to the proven conduct, insight, steps taken to address the concerns and risk of recurrence.

Readiness and autonomous practice

86. The Appeal Committee did not accept that the original Committee had relied on **[the expert's]** views about Mr Adams's readiness or resilience when deciding that he was not currently suited to working independently.

87. The original Committee had to decide whether Mr Adams was suitable to work independently. It based its decision on its factual findings, its assessment that Mr Adams had been unable to adjust or control his conduct for the benefit of others, the risk that the behaviour and attitudes would happen again, and its conclusions about insight and the steps taken to address the concerns.

88. **[The expert]** gave a view about what might happen in the future. That opinion approached the boundary between **[expert]** opinion and the regulatory assessment that which the original Committee itself was required to take. However, the determination showed that the original Committee considered the evidence for itself and gave its own reasons for finding that Mr Adams's fitness to practise was impaired.

89. After considering all four areas raised by Mr Adams, the Appeal Committee was not satisfied that the use of similar words or concepts in **[the expert's]** reports and the original determination established that the original Committee had adopted or relied on excluded opinions. The determination explained the original Committee's own reasons for its conclusions.

<u>Challenge, cross-examination and procedural fairness</u>

90. The Appeal Committee considered Mr Adams's argument that **[the expert's]** relevant conclusions had not been properly tested. He also argued that the original Committee had acted inconsistently by relying on the lack of cross-examination after directing that certain matters did not need to be explored.

91. The original Committee did not simply accept **[the expert's]** evidence without examining it. The transcripts showed that its members questioned her in detail and that both advocates had the opportunity to ask questions. Mr Dingley asked questions for Mr Adams. He was also given a break to discuss with Mr Adams whether any further questions should be asked. After that discussion, he asked no further questions.

92. The Appeal Committee did not speculate about why particular questions were or were not asked. It found that Mr Adams, who had legal representation at the time, had a fair opportunity to test the parts of **[the expert's]** evidence that were within her [PRIVATE]role.

93. The Appeal Committee recognised that the parties had been told that they did not need to question **[the expert's]** about the opinions listed in Exhibit 13. It would have been unfair to accept those excluded opinions simply because no questions had been asked about them. However, the Appeal Committee found no example of the original Committee doing that. In context, the reference to conclusions that had not been directly challenged concerned the **[expert]** opinions that were properly before the original Committee.

94. The lack of competing expert evidence did not make **[the expert's]** evidence binding. The original Committee still had to assess her reasoning, the evidence supporting it and the limits of her role. The Appeal Committee were satisfied from Exhibit 13, the questioning of **[the expert's]** and the terms of the determination that the original Committee had undertaken that assessment.

Independent assessment of impairment

95. The content and structure of the Original Committee's reasons showed that it had made its own assessment. Before considering **[the expert's]** evidence, it made findings about Mr Adams's conduct, his ability to adjust or control it for the benefit of others, his focus on his own perceived interests, the way he presented his case, his insight and the risk of the conduct happening again.

96. The original Committee also considered what Mr Adams had done to address the concerns. It recognised his efforts to improve the practical management of his professional commitments. However, it found that he had not sufficiently acknowledged or addressed the more serious concerns established by its findings.

97. The original Committee addressed **[the expert's]** evidence in a discrete part of the impairment determination. Her evidence provided [PRIVATE] context but was not the basis of its regulatory conclusions. The original Committee had already reached those conclusions by assessing the facts, Mr Adams's evidence and the matters that required its own professional judgment.

98. The Appeal Committee was therefore satisfied that the original Committee had exercised its own judgment on impairment. It had neither transferred that responsibility to **[the expert]** or treated her [PRIVATE] opinion as determinative.

Subsequent matters

99. A significant part of Mr Adams's submissions concerned his reflection, training, support [PRIVATE] as well as the steps he said he had taken or would now take. The Appeal Committee considered his submissions carefully.

100. However, those matters were outside the accepted ground of appeal. No ground of appeal based on substantial and relevant fresh evidence had been accepted. The Appeal Committee could not use material arising after the original decision to carry out a new assessment of impairment or sanction. It had to review the original decision by reference to Ground 1 and the material that was properly before the original Committee.

Conclusion on Ground 1

101. After reading the original decision fairly and as a whole, the Appeal Committee found that the words 'very strong grounds' were unfortunate and could have been and capable, if read in isolation, of suggesting an incorrect approach. Read in the context of the determination as a whole, however, they did not amount to an error of law or procedural unfairness.

102. The original Committee gave proper weight to the [PRIVATE] evidence within **[the expert's]** expertise but kept responsibility for deciding professional standards, insight, risk, impairment and sanction. It did not rely on the absence of questioning as a reason to adopt opinions which the parties had been told were outside **[the expert's]** role.

103. In any event, even if the words 'very strong grounds' were treated as an error of law , the Appeal Committee was satisfied that the error did not affect and could not have realistically affected the impairment decision. The original Committee's impairment decision was independently supported by its serious factual findings, including dishonesty; its original Committee's assessment of Mr Adams's evidence and presentation; its conclusions on insight and the steps taken to address the concerns; and its assessment of the risk of recurrence and the public interest. The Appeal Committee was satisfied that the original Committee would have reached the same decision without treating **[the expert's]** evidence as decisive.

104. Mr Adams had therefore not established Ground 1 on the balance of probabilities. The Appeal Committee dismissed the ground of appeal.

Consideration of sanction

105. Although Ground 1 had failed, the Appeal Committee followed the Legal Assessor's advice that it could still review the sanction under paragraph 131 of the Procedure. This was a review of the original Committee's decision, not a new assessment based on Mr Adams's circumstances at the date of the appeal. The Appeal Committee therefore considered the evidence and submissions that were before the original Committee when it imposed the sanction. It did not take account of later matters that had not been admitted as fresh evidence.

106. The original Committee had considered each available outcome, beginning with the least restrictive. It rejected conditions because of the seriousness of the misconduct, the findings of dishonesty, the risks identified and its concern that conditions would not be workable. It rejected suspension because of its findings about Mr Adams's insight, the steps taken to address the concerns and the risk that the conduct would happen again. It concluded that removal from the Register was necessary.

107. The Appeal Committee considered those reasons alongside the factual findings and the material that was before the original Committee. It found no error in the original Committee's approach to sanction and no basis for replacing removal with a different sanction. The direction that Mr Adams be removed from the Register therefore remains in place.

OUTCOME AND ORDER

108. Under paragraph 131(d) of the Procedure, the Appeal Committee dismisses the appeal.

109. The original Professional Conduct Committee's decision that Mr Adams's fitness to practise was impaired, and its direction that he be removed from the Register, therefore remain in place. The Appeal Committee does not replace the sanction with a different one under paragraph 131(b).

110. Under paragraph 133 of the Procedure, the removal will take effect when this written decision is communicated to Mr Adams. At that point, any interim suspension or restriction still in place will end immediately.

111. The outcome will be published under paragraph 79 of the Procedure.

112. Under paragraph 134, there is no further appeal under the NRCPD Professional Conduct Complaints Procedure. Mr Adams may still have any rights of appeal given to him by law.

<u>Clarification concerning the removal direction</u>

113. The Appeal Committee noted that the original determination did not say whether the direction was removal 'with the opportunity to return' or removal 'with no opportunity to return'. These are the two descriptions shown in the sanctions diagram on page 26 of the Guidance for Decision Makers.

114. The Appeal Committee has not decided that question or imposed a different type of removal. It invites the NRCPD Independent Registrar to explain formally to Mr Adams what the original removal direction means and whether any process exists for a future application to return to the Register in writing within 1 week of this written appeal determination being provided to Mr Adams.

115. Finally, the Appeal Committee recognised that the proceedings had been lengthy and challenging for Mr Adams and that he had represented himself during the appeal. It thanked him for taking part and engaging throughout the hearing. It also thanked the NRCPD representative for his assistance.