

Chartered Institute of Environmental Health

Fitness to Practise Panel

Hearing held on 24 January 2023
at 15 Hatfields, London SE1 8DJ

Determination (appeal determination appears later in this document)

Member:	Dilshad Dilmahmode
Panel members:	Naila Aziz (Chair, lay member) Andrew Baum (lay member) Alan Higgins (professional member)
Hearing Co-ordinator:	Andrew Harvey
Mrs Dilmahmode:	Not present, nor represented
Chief Executive, CIEH:	Represented by Jon Buttolph
Facts proved:	Allegations 1, 2, 3 and 4
Facts not proved:	None
Fitness to practise:	Impaired
Sanction:	Termination of membership

Decision and reasons in respect of notice of hearing

Mr Buttolph told the Panel that Mrs Dilmahmode was not in attendance and that, in accordance with Rule 10.1 of CIEH's 'Code of ethics for members and fitness to practise rules' (the Rules), a notice of hearing had been sent to Mrs Dilmahmode's registered e-mail and postal addresses on 6 December 2022. Mr Buttolph submitted that CIEH had complied with the requirements of Rule 10.1.

The Panel accepted the advice of the Hearing Co-ordinator in respect of the requirements of the Rules.

The Panel took into account that the notice provided details of the allegations, the time, date and venue of the hearing and, amongst other things, information about Mrs Dilmahmode's right to attend, be represented and call evidence as well as the Panel's power to proceed in her absence.

Having considered all of the information before it, the Panel was satisfied that Mrs Dilmahmode had been served with the notice of hearing, in accordance with the requirements of Rule 10.1.

Decision and reasons on proceeding in the absence of Mrs Dilmahmode

The Panel next considered whether it should proceed in the absence of Mrs Dilmahmode.

It had regard to the submissions of Mr Buttolph in this respect and reminded itself of Rule 10.7, which gave it wide-ranging powers to regulate its own proceedings, subject only to the over-riding requirement to observe the principles of natural justice and fairness to all parties.

Mr Buttolph told the Panel that, following notice of this hearing having been served on Mrs Dilmahmode, she had engaged in e-mail correspondence with CIEH on 14 December 2022 (copies of which were available to the Panel) and, more recently, on 23 and 24 January 2022.

He submitted that CIEH had made it clear to Mrs Dilmahmode that it had confirmed the date, time and place of the hearing and that she was well aware of that.

He further submitted that no request for a postponement of today's hearing had been received from Mrs Dilmahmode and that, therefore, there was no reason to believe that an adjournment would secure her attendance on some future occasion. He submitted that Mrs Dilmahmode had voluntarily absented herself from this hearing. He observed that a member of the profession was in attendance to give evidence as a witness.

The Panel noted that its power to proceed in the absence of a member should not be regarded as absolute and is one that should be exercised 'with the utmost care and caution' as referred to in the case of *R v Jones (Anthony William) (No.2) [2002] UKHL 5*.

The Panel decided to proceed in the absence of Mrs Dilmahmode.

In reaching this decision, the Panel considered the submissions of Mr Buttolph and the advice of the Hearing Co-ordinator.

It had particular regard to the factors set out in the decision of *R v Jones* (cited above) and *General Medical Council v Adeogba and General Medical Council v Visvardis [2016] EWCA Civ 162* and had regard to the overall interests of justice and fairness to all parties. It noted that:

- All reasonable efforts have been made by the CIEH to contact Mrs Dilmahmode;

- No application for an adjournment has been made by Mrs Dilmahmode;
- There is no reason to suppose that adjourning would secure her attendance at some future date;
- A witness is due to give live evidence;
- Not proceeding may inconvenience the witness, their employer and those who need their professional services;
- Delay may have an adverse effect on the ability of witnesses accurately to recall events;
- There is a strong public interest in the expeditious disposal of the case.

There is some disadvantage to Mrs Dilmahmode in proceeding in her absence. She will not be able to challenge, in person, the evidence relied upon by CIEH and will not be able to give further, oral, evidence on her own behalf. However, the evidence upon which CIEH relies has been served on her, she has had the opportunity to make submissions and has done so.

However, in the Panel's judgement, any disadvantage to Mrs Dilmahmode can be mitigated. The Panel can make allowance for the fact that CIEH's evidence will not be tested by cross-examination and, of its own volition, can explore any inconsistencies in the evidence which it identifies.

Furthermore, the limited disadvantage is the consequence of Mrs Dilmahmode's decision to absent herself from the hearing and waiving her rights to attend. The Panel noted that, in a letter to CIEH, Mrs Dilmahmode invites the Panel to proceed in her absence, despite the fact that she has been unwell recently.

In these circumstances, the Panel has decided that it is fair to proceed in the absence of Mrs Dilmahmode.

The Panel will draw no adverse inference from Mrs Dilmahmode's absence in its findings of fact.

Details of allegations

The allegation is that you, Dilshad Dilmahmode, a Member of the Chartered Institute of Environmental Health, are guilty of misconduct in that:

- 1 Between April and August 2022 you were under contract to Cambridge City Council to carry out food inspections on premises within its jurisdiction
- 2 You claimed for payment for approximately 123 food inspections between those dates
- 3 That approximately 101 of those inspections (details of which are set out in Schedule A) were not performed
- 4 That your actions at 2 (above) were dishonest

And, by reason of your misconduct, your fitness to practise as a member of CIEH is currently impaired.

Background

An officer of Cambridge City Council had contacted CIEH by e-mail on 14 September 2022 to raise concerns about a contractor who had provided services (through Buckingham Futures) to the Council's Environmental Health Department.

The person reporting the concern alleged that the contractor (Mrs Dilmahmode) had been fraudulently claiming to have carried out inspections, which had come to light when the Council had undertaken some further checks.

It was said that the Council had raised its concerns with Buckingham Futures, terminated the contract for the services of Mrs Dilmahmode and had reported matters to the Food Standards Agency and to the Police.

On receipt of these concerns, the matter was referred to a Screener in accordance with the Rules. The Screener assessed the case and, in a decision dated 26 October 2022, determined that the real prospect test was met in respect of the facts alleged being more likely than not to be found proved and of current impairment being found. In accordance with Rule 8.2 these matters were referred to a hearing.

On 28 October 2022 Mrs Dilmahmode was told about the screener's decision and formal notice of the hearing was served on her on 6 December 2022. Submissions from the Respondent had been received by CIEH on 14 December 2022 and then on 23 and 24 January 2023. These were provided to the Panel.

Decision and reasons on facts

In reaching its decisions on the facts, the Panel has taken into account all of the oral and documentary evidence in this case, the written submissions of Mrs Dilmahmode, and the submissions by Mr Buttolph on behalf of CIEH.

It drew no adverse inference from the non-attendance of Mrs Dilmahmode.

The Panel reminded itself that the burden of proof rests on CIEH and that the standard of proof is the civil standard, namely the balance of probabilities. That means that a fact will be proved if the Panel is satisfied that it is more likely than not that the incident or other matter occurred as alleged.

The Panel heard live evidence from a witness, called on behalf of CIEH, Mrs Yvonne O'Donnell, Environmental Health Manager at Cambridge City Council.

Before making any findings of facts, the Panel heard and accepted the advice of the Hearing Co-ordinator.

The Panel then considered each allegation and made the following findings of fact:

1 Between April and August 2022 you were under contract to Cambridge City Council to carry out food inspections on premises within its jurisdiction

This charge is found proved.

The Panel considered that it had cogent evidence in support of this charge and that it did not appear to be a matter of dispute between the parties.

2 You claimed for payment for approximately 123 food inspections between those dates

This charge is found proved.

The Panel considered that it had cogent evidence in support of this charge and that it did not appear to be a matter of dispute between the parties.

3 That approximately 101 of those inspections (details of which are set out in Schedule A) were not performed

This charge is found proved.

The Panel considered the oral and written evidence adduced by the parties.

It considered that Mrs O'Donnell gave a clear explanation of what it is said occurred; she was a credible and honest professional witness who did her best to assist the Panel. It noted that six individual members of her team had undertaken the subsequent checks (by telephoning each of the businesses involved) as to whether these inspections had, in fact, been carried out.

The Panel considered carefully the account of Mrs Dilmahmode that these matters were entirely fabricated.

The Panel had put each of her concerns about the case to Mrs O'Donnell (as those concerns were outlined in Mrs Dilmahmode's e-mail of 14 December 2022 and the seven points in her e-mail of 24 January 2023). The Panel found Mrs O'Donnell's responses to be both credible and consistent, with themselves and with her written evidence. Furthermore, it heard and accepted Mrs O'Donnell's evidence that Mrs Dilmahmode had been given multiple opportunities to account for her actions, but had not done so.

Overall, the Panel preferred the evidence of Mrs O'Donnell, noting that the written evidence supported her oral evidence and that she was both an experienced and senior environmental health professional. It could not identify any potential motive for her to mislead the Panel.

4 That your actions at 2 (above) were dishonest

This charge is found proved.

The Panel reminded itself of the advice that it had been given in respect of the relevant legal test of dishonesty as set out in the case of *Ivey v Genting Casinos (UK) Ltd t/a Crockfords [2017] UKSC 67*. In respect of Mrs Dilmahmode's actual knowledge or belief as to the facts (the subjective test), the Panel concluded that it was simply not credible that Mrs Dilmahmode believed that submitting reports in circumstances such as these was anything other than a dishonest act.

Applying the objective test (in other words, 'was the conduct found proved dishonest by the standards of ordinary decent people?'), the Panel concluded that a member of the public would rightly be appalled at such conduct as has been found proven and would consider it wholly dishonest.

Fitness to practise

Having reached its determination on the facts of this case, the Panel then moved on to consider whether the facts found proved amount to misconduct and, if so, whether Mrs Dilmahmode's fitness to practise is currently impaired.

There is no statutory definition of fitness to practise. However, CIEH views fitness to practise as a member's suitability to remain as a member of CIEH, unrestricted.

The Panel, in reaching its decision, has recognised its duty to protect the public and maintain public confidence in the profession. Further, it bore in mind that there is no burden or standard of proof at this stage and it has, therefore, exercised its own professional judgement.

The Panel adopted a two-stage process in its consideration. First, the panel must determine whether the facts found proved amount to misconduct. Secondly, only if the facts found proved amount to misconduct, the Panel must decide whether, in all the circumstances, Mrs Dilmahmode's fitness to practise is currently impaired as a result of that misconduct.

Submissions on misconduct

In coming to its decision, the Panel had regard to the case of *Roylance v General Medical Council (No. 2) [2000] 1 AC 311* which defines misconduct as a 'word of general effect, involving some act or omission which falls short of what would be proper in the circumstances.'

Mr Buttolph invited the Panel to take the view that the facts found proved amount to misconduct. He submitted that it was important to CIEH members that matters of public interest and public protection were engaged with by CIEH, both of themselves but also as these protected the reputation of the profession.

Decision and reasons on misconduct

When determining whether the facts found proved amount to misconduct, the Panel had regard to the terms of the Rules.

The Panel was of the view that Mrs Dilmahmode's actions did fall significantly short of the standards expected of a CIEH member and that they amounted to a breach of the Code of Ethics contained within the Rules. Specifically, it accepted the submissions of Mr Buttolph that her conduct found proved did involve a falling short of what would be proper in the circumstances.

It determined that Mrs Dilmahmode's proven actions constituted misconduct and that the following provisions of the Code of Ethics were engaged in this case:

5.1.1 The interests of the communities that they serve are paramount: members shall put those before their own or those of any colleague or organisation

5.2.1 Be straightforward, honest and fair. A member shall not be associated with reports, returns, communications or other information where they believe that the information: contains a false or misleading statement; contains statements or information furnished recklessly; or omits or obscures information required to be included where such omission or obscurity would be misleading

5.2.2 Maintain their integrity and justify the trust the public, employers and colleagues have in them and the profession

5.2.4 Avoid conduct that could affect or undermine the confidence placed in them, the CIEH and the environmental health profession

5.2.5 Not knowingly mislead anyone

5.2.6 Deal honestly in all financial matters

Submissions on impairment

Mr Buttolph moved on to the issue of impairment and addressed the Panel on the need to have regard to protecting the public and the wider public interest. This included the need to declare and maintain proper standards and maintain public confidence in the profession and in CIEH.

Whilst not binding on the Panel, in any manner, it found it helpful to consider the observations of Mrs Justice Cox in the case of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant [2011] EWHC 927 (Admin)* in which is cited the approach of Dame Janet Smith in the fifth Shipman Enquiry, often used in fitness to practise proceedings.

“Do our findings of fact in respect of the (doctor’s) misconduct.... show that his/her fitness to practise is impaired in the sense that s/he: a. has in the past acted and/or is liable in the future to act so as to put (a patient or patients) at unwarranted risk of harm; and/or b. has in the past brought and/or is liable in the future to bring the (medical) profession into disrepute; and/or c. has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the (medical) profession; and/or d. has in the past acted dishonestly and/or is liable to act dishonestly in the future.”

The Panel considered that each of these tests was engaged in this case, both in respect of Mrs Dilmahmode’s past conduct and the future risk associated with her professional practise.

Accordingly, the Panel found Mrs Dilmahmode to be currently impaired on grounds of public protection and otherwise in the public interest.

Submissions on sanction

The Panel considered the submissions of Mr Buttolph in respect of sanction.

Mr Buttolph submitted that there were two areas that the Panel might choose to focus on in its decision-making in respect of the appropriate sanction.

Mrs Dilmahmode’s actions had put the health of members of the public at risk. Those purchasing food and drink from establishments that she had said that she had inspected (and that the local authority thought she had too) would be unaware that there had been no statutory inspection of them and, therefore, no assessment of hygiene, safety and other matters. Mrs Dilmahmode’s proven actions introduced unacceptable risk to members of the public.

The second key area was Mrs Dilmahmode’s proven dishonesty. It was central to effective environmental health practise that the public, employers and others could trust what members of CIEH said and did. This was entirely lacking in the manner in which Mrs Dilmahmode conducted

herself. Members of the public would be appalled at the approach that she had taken to claiming money from public funds to which she was not entitled.

Mr Buttolph submitted that he was unable to identify any mitigation in respect of Mrs Dilmahmode's proven actions.

He further submitted that removal of membership was the appropriate and proportionate outcome in this case.

Decision on sanction and reasons

In reaching its decision, the Panel took account of the need to uphold proper standards for the environmental health profession, mark the public interest in this case and maintain confidence both in the profession and in CIEH and its fitness to practise procedures.

The Panel considered the range of sanctions available to it, starting at the least severe.

The Panel considered reprimanding Mrs Dilmahmode and the giving of advice as to future conduct. It determined that this was not a sufficient outcome, given the serious nature of its findings of fact.

The Panel went on to consider transferring Mrs Dilmahmode to another grade of membership. However, it noted that this was not a case where the facts related directly to membership matters and, in the particular circumstances of this matter, determined that this was neither an appropriate nor cogent sanction. It determined that the removal of any membership privilege was, equally, not appropriate.

The Panel noted that CIEH was not responsible for Mrs Dilmahmode's registration status and that, therefore, this was not a sanction available to the Panel.

Finally, the Panel went on to consider terminating Mrs Dilmahmode's membership of CIEH. It considered that this was the appropriate sanction given its very serious findings of fact. Whilst it acknowledged that this sanction would, potentially, have an adverse impact on Mrs Dilmahmode, the public interest in this case outweighed her personal interests. This was the only sanction available which, in the view of the Panel, marked the seriousness of the matters found proved.

Right of appeal

The Panel noted the provisions in CIEH's Fitness to Practise rules for Mrs Dilmahmode to appeal its decision on any of the grounds outlined in Rule 13.1.

It also noted the provisions of Rule 12.4 in respect of the publication of determinations.

Accordingly, the Panel directed that this determination may not be published, in any form by any party, until after the notice period for an appeal has expired.

Costs

The Panel, of its own volition, asked Mr Buttolph if CIEH wished to make an application for an order against Mrs Dilmahmode in respect of costs, under the provisions of Rule 12.1.

Mr Buttolph confirmed that CIEH made no such application.

Accordingly, the Panel made no order as to costs.

That concludes this determination.

Chartered Institute of Environmental Health

Fitness to Practise Panel

**Appeal hearing held on 6 October 2023 and 22 March 2024
at 15 Hatfields, London SE1 8DJ**

**Determination (to be read in conjunction with the
determination of a principal hearing in this matter, held on
24 January 2023)**

Applicant:	Dilshad Dilmahmode
Panel members:	Ronald Barham (lay member) Kristian Cavanagh (Chair, lay member) Amanda Clarke (professional member)
Hearing Co-ordinator:	Andrew Harvey
Mrs Dilmahmode:	Present, not represented
Chief Executive, CIEH:	Represented by Jon Buttolph
Appeal outcome:	Appeal refused

Background to this appeal hearing

At a fitness to practise hearing, held on 24 January 2023, the Panel considered the following allegations:

The allegation is that you, Dilshad Dilmahmode, a Member of the Chartered Institute of Environmental Health, are guilty of misconduct in that:

- 1 Between April and August 2022 you were under contract to Cambridge City Council to carry out food inspections on premises within its jurisdiction*
- 2 You claimed for payment for approximately 123 food inspections between those dates*
- 3 That approximately 101 of those inspections (details of which are set out in Schedule A) were not performed*
- 4 That your actions at 2 (above) were dishonest*

And, by reason of your misconduct, your fitness to practise as a member of CIEH is currently impaired.

Mrs Dilmahmode did not attend the substantive hearing of her case, nor was she represented. The panel determined, at that hearing, that there had been good service of notice on Mrs Dilmahmode and that it was appropriate for the hearing to proceed in her absence.

CIEH's case was presented by Jon Buttolph who called a witness, Yvonne O'Donnell.

This appeal panel was provided with the determination of the original panel which considered Mrs Dilmahmode's case. That panel found each allegation proven, that Mrs Dilmahmode's practice was currently impaired and ordered that her membership of CIEH be terminated.

Mrs Dilmahmode was sent the panel's determination on 26 January 2023 and her right to appeal was explained to her. She submitted an appeal on the same date.

She was served notice of an appeal hearing on 16 March 2023 and it was explained to her that CIEH would not be calling witnesses but that she was free to do so; if she wished to call witnesses, she must advise CIEH. She did not provide such notice. She was, subsequently, provided with a revised appeal hearing date; notice of which was served on her on 5 July 2023.

Background to appeal

On 27 January 2023, Mrs Dilmahmode set out her grounds of appeal in an e-mail to CIEH. In that e-mail, she submitted that:

"1. The entire scenario and determination were stacked against me because the description presented to the panel was completely bogus and unfair. I provided a clear and legitimate reason for my absence, which I can back up with additional evidence. There have been cases in the past where a respondent did not attend the panel, but it was not raised and brought to light in the same way that my absence did to my case, demonstrating bias.

2. Each step of the decision is based on one side, which is the Cambridge Council Side. There was nothing that showed fairness. I was thrown out of the entire thing, and it was a panel where the Chief Executive, CIEH: Represented by Jon Buttolph, had already made his decision.

3. The panel decided that Yvonne O'Donnell is a responsible person because of her position. I oppose this type of judgement in which people are judged based on their profession even if they benefit from it.

4. I sent my concerns to Mr. Buttolph on 23/01/23, but none were mentioned in the panel.

5. The decision confirmed that six members of their team testified against me. and the panel has taken this into consideration. The witnesses are false, and they misled the panel.

6. I want to remind the Cieh about their own Four Ethical Principles

4.1 This code is based on four ethical principles, which constitute the main domains of responsibility within which ethical issues are considered. These are:

- Integrity
- Competence

Responsibility; and

- Respect

5.3.2 Avoid conflicts of interest that may arise between their professional work and the health of the public.

5.3.3 Observe the laws of the country in which they are practising.

5.3.4 Inform CIEH, immediately, of any conviction of a criminal offence - in any jurisdiction.

7. When the CIEH assumed that an Environmental Health manager was honest and was attempting to assist the CIEH with evidence, I was verbally and physically abused by this manager, and the reason is that she is toxic to the public and . And I have evidence to present to the panel at the next hearing, but I will not email it to you because I am sceptical of CIEH bias.

5.6.1 Never abuse their professional position.

5.6.2 Treat everyone politely and with respect, in recognising their dignity as individuals and their right to make choices and be involved in decisions which affect them.

7. As I previously stated, she was verbally and physically abusing me, and there was an eyewitness at the council who witnessed the abuse, but I do not know the staff's name.

13.1.2 That additional evidence (which was not available at the time of the meeting) has subsequently become available and that this evidence could have materially affected the decision of the Panel

8. I have received text messages and phone calls from Cambridge food businesses inquiring about why they have not received their sticker after I told them it would be mailed to them. They claimed that a councilwoman informed them that they had not been inspected.

9. I was not dishonest, and I did my job honestly. I worked hard to get here, and I will not let anyone mistreat, use me (evidence held), be unfair to me, play with my emotions and the emotions of my family, and lose respect and jobs.

10. I want and need someone from the CIEH to get back to me as soon as possible."

Panel consideration of Mrs Dilmahmode's appeal

The Chair invited Mrs Dilmahmode and Mr Buttolph to address the Panel on any preliminary, legal issues. No such issues were raised.

He then invited Mrs Dilmahmode to address the panel in respect of the decision of the original panel to proceed in her absence when the original hearing of these matters was held, the panel having identified from the grounds of her appeal that this was an issue that she raised. He reminded Mrs Dilmahmode that any evidence in respect of her health, or the health of others, would be heard in private in accordance with the provisions of Rule 10.6 of the Code of Ethics for members (the Code) and Fitness to Practise Rules (the Rules).

Mrs Dilmahmode addressed the panel and outlined the basis of the appeal which she brought. She said that the decisions of the original panel were unfair, unreasonable and demonstrated bias.

She said that she had received the determination of the original panel and had concluded that it had been a disadvantage to her to not be there; she had sent all of the evidence that she had, which had said that she was ill.

[REDACTED]
[REDACTED] In her submission she had sent relevant evidence to CIEH, that it would not have presented her case and that the panel only saw what CIEH showed it.

In her submission, the determination was "all one-sided", in that the only evidence submitted was that from her former employer.

She had noted that the point had been made that she did not ask for a postponement of the January hearing. She submitted that the ability to make such an application was not referenced in the Code nor on CIEH's website. She said that it had not been her intention to 'escape' the hearing, but that she was ill.

She went on to submit that the Rules provided that at least 28 days' notice of an appeal hearing must be given. The original appeal hearing date was 98 days after the substantive hearing and the date of this hearing, a further 98 days later. She acknowledged that the latter delay was occasioned by the illness of a panel member. In her submission, CIEH had not followed its own Code.

In response to questions from the panel, Mrs Dilmahmode explained that she could have attended the substantive hearing remotely if required.

The Chair invited Mr Butolph to make any submissions that he wished, on the matters on which Mrs Dilmahmode had addressed the panel.

Mr Butolph noted that the determination of the original panel made it clear that it would not draw any adverse inference from Mrs Dilmahmode's absence from the original hearing. He pointed out that the reference to 28 days in the Rules was a minimum period only. Whilst it was a matter of

regret that it had not been possible to list this hearing on any earlier date, CIEH had complied with all of the provisions of the Rules.

He confirmed that there had been no discussion with Mrs Dilmahmode in respect of a potential adjournment. He noted that the original panel came to the view that Mrs Dilmahmode had voluntarily absented herself. All of her written evidence, including that in respect of medical matters had been before that panel.

Mr Buttolph submitted that he had invited the original panel to proceed to hear this matter on the basis that the matters alleged were serious, raised matters of public protection and of public interest and that there were witness present to give live evidence.

The Chair asked Mrs Dilmahmode if she would have submitted any additional evidence had she been present at the hearing. She said that she would not have, but that she would submit further evidence during these proceedings.

In response to panel questions she reaffirmed that she had submitted all of the evidence that she sought to rely on at that time.

The Panel heard and accepted the advice of the Hearing Coordinator. He reminded the panel of the principles espoused in the cases of *General Medical Council v Adeogba and General Medical Council v Visvardis [2016] EWCA Civ 162* relating to the panel's power to proceed in the absence of the member and of the case of *Viridi v Law Society [2010] 1 WLR 2840*. The principles set out in the latter case gave this panel wide powers to determine the manner in which it considered this appeal, subject to not being inconsistent with the Rules and the over-riding issue of fairness.

In making its decision, the Panel had regard to the overall interests of justice and fairness to all parties. It confined its consideration, at this stage, as to the appropriateness of the original panel's decision to proceed in the absence of Mrs Dilmahmode.

It concluded that, on balance, the original panel had not erred in its decision. Given the seriousness of the allegations, it was appropriate that it should proceed in the absence of Mrs Dilmahmode.

This panel noted that Mrs Dilmahmode had submitted that she would have called no further written evidence and appeared to acknowledge that the panel had had her detailed submissions before it. Whilst this panel considered that CIEH might have drawn Mrs Dilmahmode's attention to the possibility of her seeking an adjournment, or attending the hearing by remote means, it was not obliged to do so and it was for Mrs Dilmahmode to consider such matters.

Having announced its decision on these matters, the panel invited Mrs Dilmahmode's further submissions.

Mrs Dilmahmode submitted that she denied the factual allegations. It was her case that she had carried out the 101 inspections, which the previous panel had found proven that she had not.

In her submission, she had carried out each inspection for which she had claimed payment and had delivered the relevant documentation to the Council, either by leaving it at the Reception of the Council's offices or handing it to members of the appropriate team

She did not understand why these allegations had been made. She said that she had submitted evidence of non-compliance that she had uncovered in her work by sending photographs to another Council officer, thus evidencing that the inspections had taken place.

Mrs Dilmahmode further submitted that she had left the relevant paperwork at each of the businesses that she had been required to inspect. In each case, this set out the work that was needed to be completed to reach the relevant standards and the timescales for such work. She said that she had carried out similar work for a number of local authorities who would be able to confirm the way in which she worked. She confirmed that she had no evidence to offer the panel in respect of having completed the inspections, nor was any such evidence available from the agency through whom she had been employed.

The Chair asked the parties to leave the hearing in order that the Panel might consider matters related to the Rules.

Panel determination to adjourn and issue directions

The Panel reminded itself of the advice that it had received in respect of its ability to regulate its own proceedings, subject to the overriding consideration of fairness, as set out in the case of *Viridi v Law Society [2010] 1 WLR 2840*.

The Panel considered that Mrs Dilmahmode's appeal in respect of Rules 13.1.1 and 13.1.2 could only be adjudicated upon by this panel if it had the opportunity to hear not only from her (and any witnesses she chose to call) but, also, from other witnesses on whose evidence CIEH sought to rely.

The Panel could see nothing in the evidence adduced at the substantive hearing of this matter that amounted to a denial of the factual basis of the allegations. It was, clearly, now Mrs Dilmahmode's case that she had carried out such inspections.

Accordingly, in the interest of fairness and natural justice, the Panel adjourned its consideration of Mrs Dilmahmode's appeal and directed that:

- a resumption of this hearing be listed as soon as is practicable
- the Hearing Co-ordinator should secure availability of the members of the Panel and then offer no fewer than three dates to Mrs Dilmahmode and CIEH
- each party must indicate its availability on those dates, no later than seven days after notice of the dates was served.
- CIEH must serve those dates on Mrs Dilmahmode on behalf of the panel
- after the seven day period, the Hearing Coordinator must then agree with the panel a date for the resumption of this appeal hearing
- in the event that a mutually agreeable date is not identified, the Panel will direct a date for the resumption of the hearing
- the Hearing Coordinator must then provide the date to CIEH who must put Mrs Dilmahmode on notice of the date
- no later than 14 days before the new date, both parties must serve on each other all written evidence (including any witness statements) on which they will rely at the hearing
- no party may adduce written evidence that is not so served
- CIEH must, no later than 13 days before the new date, provide the Hearing Coordinator with both its evidence and that served on it by Mrs Dilmahmode
- that this determination, or any part of it, may not be published by any party until the conclusion of the appeal hearing

The panel would be assisted, at the resuming hearing, by:

- CIEH seeking the attendance of the witness who gave evidence at the substantive hearing and any member of her team who carried out the original investigation
- Mrs Dilmahmode seeking the attendance of any witnesses, in particular any food business owner, who is able to give evidence as to the inspections which she says that she carried out and any documentary proof that she submitted to Cambridge City Council the reports that she says she did

The panel, therefore, adjourns this hearing to a further date notice of which will be given to the parties.

Panel directions, prior to resuming hearing on 22 March 2024

The panel reminded itself that, on 14 February 2024, it had issued the following directions to the parties, on its own volition:

“CIEH is directed:

- *That it must serve this notice on Mrs Dilmahmode, within one working day of its receipt by CIEH*

Both parties are reminded of the following matters, set out in the directions issued on 6 October 2023:

In the interest of fairness and natural justice, the Panel adjourned its consideration of Mrs Dilmahmode’s appeal and directed that:

- *.....*
- *no later than 14 days before the new date (ie 8 March 2024, for the resumed appeal hearing on 22 March 2024), both parties must serve on each other all written evidence (including any witness statements) on which they will rely at the hearing*
- *no party may adduce written evidence that is not so served*
- *CIEH must, no later than 13 days before the new date, provide the Hearing Coordinator with both its evidence and that served on it by Mrs Dilmahmode*

- *.....*

The panel would be assisted, at the resuming hearing, by:

- *CIEH seeking the attendance of the witness who gave evidence at the substantive hearing and any member of her team who carried out the original investigation*
- *Mrs Dilmahmode seeking the attendance of any witnesses, in particular any food business owner, who is able to give evidence as to the inspections which she says that she carried out and any documentary proof that she submitted to Cambridge City Council the reports that she says she did.”*

The Panel had pointed out to the parties that, if either party were to fail to address either the directions or the latter two points, it would be open to the Panel to proceed to hear this appeal on the basis of whatever statements, other evidence or witness testimony was available to it.

The Panel further reminded itself that it had determined that any evidence in respect of Mrs Dilmahmode’s health or the health of others, would be heard in private in accordance with the provisions of Rule 10.6 of the Code and the Rules.

Panel's further consideration of Mrs Dilmahmode's appeal, at resuming hearing on 22 March 2024

The Chair reminded Mrs Dilmahmode that the Panel had, in effect, dealt with her submissions in respect of the decision of the original panel to proceed in her absence by adjourning until today and affording her the opportunity of adducing what evidence or witness statements she wished or producing any witnesses to give evidence orally.

In response to the Panel's earlier directions to the parties, it noted that:

- CIEH had not submitted any further evidence on which it sought to rely.
- Mrs Dilmahmode had submitted 22 items of evidence (labelled Batch 1 to Batch 22).
- The Hearing Coordinator drew the Panel's attention to the fact that each of these documents had been before the Panel which considered the substantive hearing of these matters. As such, his advice to this Panel was that these items did not meet the requirement set out in Rule 13.1.2, as the evidence now adduced was not evidence that had become available subsequent to the original hearing. His advice was that the Panel should not admit those items into evidence, as to do so would be inconsistent with the provisions of Rule 13.1.2.
- Mrs Dilmahmode had also submitted an e-mail exchange labelled 'EHO Audit 2022 – D Dilmahmode' and a document entitled 'DD CIEH LETTER'.
- The Hearing Coordinator drew the Panel's attention to the fact that part of the latter document had been before the Panel which considered the substantive hearing of these matters. As such, his advice to this Panel was that this part of this item did not meet the requirement set out in Rule 13.1.2 as the evidence now adduced was not evidence that had become available subsequent to the original hearing.
- The Hearing Coordinator further advised the Panel that the other elements (ie the new content, added since the substantive hearing of these matters) met the requirements of Rule 13.1.2, as did the e-mail exchange labelled 'EHO Audit 2022 – D Dilmahmode'.

The Panel accepted the advice of the Hearings Co-ordinator and determined that, in accordance with the Rules, it would admit into evidence in respect of this appeal:

- o The e-mail exchange labelled 'EHO Audit 2022 – D Dilmahmode'
- o The document entitled 'DD CIEH LETTER, excluding that part of it that was before the original Panel at the substantive hearing on 24 January 2023.

As an experienced and professional panel, members would put the content from the document entitled 'DD CIEH LETTER' which had been before the original panel (but which this Panel had not admitted) from its mind.

Mrs Dilmahmode confirmed that she did not intend to call any witnesses to give oral evidence.

The Chair invited Mrs Dilmahmode further to address the panel in respect of the grounds of her appeal.

Mrs Dilmahmode said that the evidence that the panel had excluded had not been put before the original panel, in that it had not been considered by the original panel. She said the original panel

had considered the evidence adduced by CIEH, but not her evidence. She had evidence that she had carried out the relevant work.

Mrs Dilmahmode further submitted that she had completed the inspections, the evidence supporting that was before the original panel and that she had nothing to add.

The Panel heard live oral evidence from a witness, Yvonne O'Donnell, who had been invited to attend the hearing to assist the Panel.

Ms O'Donnell gave evidence in examination by Mrs Dilmahmode and Mr Buttolph and in response to questions from members of the Panel.

Ms O'Donnell explained that the matters found proven by the original panel came to light in the period after a member of her team had left and a report was submitted by Mrs Dilmahmode in respect of food premises which no longer existed at the time it was said to have been carried out and was 'a building site'. Mrs O'Donnell explained that the inspection of a second premise (to which Mrs Dilmahmode had referred in her submissions) had taken place, but that this had been on the day after Mrs Dilmahmode had become aware of her employer's concerns and, in any event, was not cited as one of the locations where it was said that dishonest reports had been made

Ms O'Donnell confirmed that her evidence was not that Mrs Dilmahmode had not inspected any businesses but, rather, that she had only carried out some inspections amongst those for which she had claimed payment, as reflected in the allegations in this case.

The additional evidence in Mrs Dilmahmode's submissions related to a location which was not one where there was evidence to say that she had failed to carry out the inspection. Ms O'Donnell said that her team had reported to her that this inspection had only been carried out the day prior to its follow up visit to the site. She confirmed that, in the period since the hearing of this appeal had been adjourned, she had not been asked to provide further evidence by either party.

The panel invited Mrs Dilmahmode to comment on the fact that part of her case was that she was confused about the trading name of the location she inspected. It was put to her that the company name and branding would be on the paperwork presented to her. Mrs Dilmahmode's evidence was that she could not recall, although she commented that CIEH might have chosen to ask for any such evidence.

Closing submissions of the parties

On behalf of CIEH, Mr Buttolph submitted that the new evidence adduced by Mrs Dilmahmode related to a single business premise and was not in respect of a location related to the allegations, which the original panel had found proved. He further submitted that the original panel had seen all of the documents that Mrs Dilmahmode had submitted and heard live witness evidence. At the first day's hearing in respect of this appeal, this Panel had invited Mrs Dilmahmode to submit further evidence that supported her position that she had carried out the inspections as she states. She had not produced that new evidence.

He further submitted that the sanction applied by the original Panel was not unreasonable. The matters it had found proven were serious. A large number of businesses were involved and a real risk to public health was engaged. The scale of the matters meant that they constituted serious dishonesty. He submitted that the breadth of the unchallenged evidence meant that it this Panel should not permit the appeal.

Mrs Dilmahmode submitted that she made her appeal on the grounds that the decision of the original panel was unreasonable, that there was additional evidence and that the sanction imposed was disproportionate. She said that there was no evidence to support the view that the inspections had not been carried out. She accepted that, had she not carried them out, that would be a serious matter and introduce a risk to public health.

In respect of the obtaining of statements from owners of premises that she contested that she had inspected, she explained that CIEH had provided her with an appropriate witness statement template. Of the circa 100 premises, she had visited four. Each of those had told her that they had been advised, by Cambridge City Council, that the relevant inspections were the subject of allegations in these proceedings. She had asked each to give statements but they declined to do so.

It was her case that she had done the work and that her signing in at the Council's reception on a weekly basis was evidence of that.

The Chair invited the Hearing Co-ordinator to offer the Panel advice. He reminded the Panel that the burden of proof in an appeal hearing was on the Applicant. The standard of proof was the civil standard, often referred to as the 'balance of probabilities'. The central issue for the Panel, in proceedings under the Rules, was that of public protection. The grounds for appeal were limited to those set out in the Rules. The Panel accepted the advice of the Hearing Co-ordinator.

Decision

The Panel determined not to allow the appeal on any of the grounds sought by Mrs Dilmahmode.

It found that her evidence, limited as it was beyond a bare denial, was inconsistent and unconvincing. The decisions of the original Panel were reasonable for it to have been reached, in the particular circumstances of this case and in the light of the evidence before it. The additional evidence adduced as part of this appeal was very limited; the Panel was able to put very little weight on it and it was not persuasive. The existence of inspection reports was not sufficient to support an assertion that the inspections were actually carried out, which was the mischief in this case.

Given its findings in respect of the above matters, the Panel concluded that the sanction imposed was both proportionate and appropriate.

Having given careful consideration to the submissions of both parties, the Panel determined that Mrs Dilmahmode's appeal should be dismissed.

Costs

The Panel, of its own volition, asked Mr Buttolph if CIEH wished to make an application for an order against Mrs Dilmahmode in respect of costs, under the provisions of Rule 12.1.

Mr Buttolph confirmed that CIEH made no such application.

Accordingly, the Panel made no order as to costs.

That concludes this determination.