

Chartered Institute of Environmental Health

Fitness to Practise Panel

Hearing held on 28 March 2023
by Microsoft Teams

Determination

Member:	Samuel Babatola
Panel members:	Kristian Cavanagh (Chair, lay member) Amanda Clarke (professional member) Pamela Ormerod (lay member)
Hearing Co-ordinator:	Andrew Harvey
Mr Babatola:	Present, not represented
Chief Executive, CIEH:	Represented by Jon Buttolph
Facts proved:	Allegations 1, 2, 3 and 4 a, b and c
Facts not proved:	None
Fitness to practise:	Impaired
Sanction:	Termination of membership and 12 month exclusion from further education assessment

Details of allegations

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

- 1 You are currently undergoing CIEH's pathway to become a Registered Food Safety Practitioner.
- 2 Part of this pathway includes completing the Competency Development Portfolio (CDP), for which you submitted the required workplace activities.
- 3 The signature and name of the person purporting to verify the competencies demonstrated in your CDP were applied fraudulently, without their knowledge.
- 4 That your actions at 3 (above) were:
 - a. Misleading
 - b. Lacking in integrity
 - c. Dishonest

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

Background

Mr Babatola is undertaking a CIEH programme to become a Registered Food Safety Practitioner. As part of that, he is required to complete a Competency Development Portfolio (CPD). The CDP is a set of work-based activities that CIEH expects candidates to undertake and then to write up. CIEH requires the counter-signature of someone in the student's workplace to confirm that the reported activity was undertaken by the candidate.

In Mr Babatola's case, a member of CIEH staff noted what were said to be some irregularities with the completion of the form. He contacted the person whose signature those in the document were said to be, who confirmed that they had not signed the CDP.

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 30 January 2023, determined that the real prospect test was met in respect of the facts alleged and of current impairment being found. In accordance with Rule 8.2 these matters were referred to a hearing.

On 3 February 2023 Mr Babatola was told about the screener's decision and formal notice of the hearing was served on him on 14 February 2023. Submissions from the Respondent had been received by CIEH on 3 February, 4 February and 22 March 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 and oral evidence of Mr Babatola, and the submissions by Mr Buttolph on behalf of CIEH, the oral evidence of Mr Runghasawmi and a witness statement given by Leanne Perry.

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, Mr Reuben Runghasawmi, Network Manager (Learning) at CIEH.

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 You are currently undergoing CIEH's pathway to become a Registered Food Safety Practitioner

This charge is found proved on the basis of Mr Babatola's admission.

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 Part of this pathway includes completing the Competency Development Portfolio (CDP), for which you submitted the required workplace activities.

This charge is found proved on the basis of Mr Babatola's admission.

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 The signature and name of the person purporting to verify the competencies demonstrated in your CDP were applied fraudulently, without their knowledge.

This charge is found proved on the basis of Mr Babatola's admissions in respect of application of the name but not signature and in respect of it being without that person's knowledge but not fraudulently.

The Panel went on to consider those elements of Charge 3 that were denied by Mr Babatola. These remaining elements of Charge 3 were found proven by the Panel.

As a result the Panel found all of Charge 3 proven.

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

It considered that Mr Runghasawmi gave a clear explanation of what is said to have occurred; he was a credible and honest professional witness who did his best to assist the Panel. It noted that, having considered that there may be a problem, he had taken the appropriate

and professional course of action by contacting the person whose signature was said to have been applied to the CDP document.

The Panel gave careful consideration to Mr Babatola's submissions in respect of this charge, including his partial admissions. It reminded itself that his evidence was that the column headed 'signature' in the relevant forms did contain a name but that it was not Ms Perry's signature and what was in each of the boxes had been applied by him. He agreed that what he had applied to the form would be understood, by anyone reading the form, to be a signature of Ms Perry.

Overall, the Panel preferred the evidence of Mr Runghasawmi (supported as it was by the evidence of Ms Perry about her own signature and the fact that she had not applied it to the documents). In Mr Runghasawmi's case, his written evidence supported his oral evidence; the panel could not identify any potential motive for him to mislead the Panel.

It found the written evidence, given by Ms Perry, to be equally persuasive. She had clearly done her best to assist the panel and, in light of the written evidence adduced by Mr Babatola in respect of her view of his work, the panel could not conclude that she bore ill-will towards him. The Panel noted that it had been told that the process of signing off a CDP required a discussion and that Ms Perry was clear that no such conversation had taken place.

4 That your actions at 3 (above) were:

a. Misleading

b. Lacking in integrity

c. Dishonest

Charge 4a is found proved on the basis of Mr Babatola's admissions, Charges 4b and 4c are found proven by the panel.

The Panel went on to consider those elements of Charge 4 that were denied by Mr Babatola. These remaining elements of Charge 4 were found proven by the Panel.

As a result the Panel found all of Charge 4 proven.

The Panel reminded itself of the advice that it had been given in respect of each of the three terms used.

In respect of being misleading, the panel gave this term its ordinary everyday meaning of 'causing someone to believe something that is not true'. It noted that Mr Babatola had accepted that his actions were misleading.

In relation to something being lacking in integrity, the Panel had been to advised to consider the comments of Jackson LJ in the case of *Wingate and Evans v Solicitors Regulation Authority; Solicitors Regulation Authority v Malins* [2018] EWCA Civ 366, (at paragraph 97) that "In professional codes of conduct, the term 'integrity' is a useful shorthand to express the higher professional standards which society expects from professional persons and which the professions expect from their own members.", at paragraph 100, "Integrity connotes adherence to the ethical standards of one's own profession." and, at paragraph 101, "The

duty to act with integrity applies not only to what professional persons say, but also to what they do.”

The Panel considered that Mr Babatola’s proven actions demonstrated a significant departure from the higher professional standards expected of members of CIEH in relations to their practice. It concluded, therefore, that his actions were clearly lacking in integrity.

It reminded itself that relevant legal test for dishonesty was set out in the case of *Ivey v Genting Casinos (UK) Ltd t/a Crockfords [2017] UKSC 67*. In respect of Mr Babatola’s actual knowledge or belief as to the facts (the subjective test), the Panel concluded that it was incredible that Mr Babatola should ever believe that applying someone else’s signature and then submitting documents in circumstances such as these was anything other than a dishonest act. Furthermore, it concluded that Mr Babatola’s submission that, in the event that there was a problem with his CDP, he would speak to Ms Perry denoted that he understood that his actions were dishonest.

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 Mr Babatola’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 are sufficiently serious so as to amount to misconduct.

Secondly, only if the facts found proved amount to misconduct, the Panel must decide whether, in all the circumstances, Mr Babatola’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, in respect of both the Code of Conduct and CIEH's Examination Regulations. 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.

Mr Babatola submitted that it was not his intention to mislead and that he had not knowingly misled others on this occasion or in the past.

The Panel found it necessary, whilst he has making his submissions, to point out to Mr Babatola that he could not now seek to go behind the findings of the Panel (albeit that there was an appeal process, at the conclusion of these proceedings, which would be available to him).

He submitted that the CDP submission was not particularly important in that it did not carry significant weight in the final assessment. He acknowledged that what he had done was 'a bad thing' and unprofessional.

Decision and reasons on misconduct

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

Mr Buttolph identified elements of the Code of Ethics and Examination Regulations that he said were engaged by Mr Babatola's proven actions.

Mr Babatola submitted that he acted out of impulse to protect his 'investment in the programme that he had been undertaking' and that he would have sought the appropriate confirmation at a later date, had the matters proved not come to light.

He further submitted that the issues that faced by the environmental health profession in respect of recruitment were relevant to his position. He also made the point that there had been no previous behaviour of this nature, at any point in his career.

The Panel was of the view that Mr Babatola'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 his conduct found proved did involve a falling short of what would be proper in the circumstances.

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

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

It further determined that the matters found proven constituted misconduct on the basis that they constitute a breach of CIEH's Examination Regulations (2022 version) and that the following provisions were engaged in this case:

53 Breaches of these Regulations may include:

53.7 Any action considered to unduly or improperly influence the result of the assessment or have the potential to do so

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.

Mr Babatola made no specific submissions in relation to impairment, other than to say that he had done everything he could to apologise to Ms Perry and 'put things right' with her.

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 Mr Babatola's past conduct and the future risk associated with his professional practise. It concluded that the absence of insight on Mr Babatola's part accentuated the risk of repetition, along with his attempts to minimise the impact of his actions.

The Panel further considered that a member of the public, aware of the full facts of this case, would be concerned if current impairment were not found to subsist.

Accordingly, the Panel found Mr Babatola 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.

Mr Babatola's actions had the potential to put the health of members of the public at risk. The second key area was Mr Babatola's proven misleading conduct, which the panel had also found lacked integrity and amounted to dishonesty.

He further submitted that removal of membership was the appropriate and proportionate outcome in this case, accompanied by Mr Babatola being precluded from resitting the assessment for a period of 12 months from today's date.

Mr Babatola submitted that he was not a threat to the public and that termination of his membership was disproportionate. Those who knew his environmental health practice would attest to this and their support was evident in the references that he had submitted to the panel. He did not think that this incident should be something that should define him; he drew the panel's attention to the work that he had done in conjunction with the United Nations. He did not accept that he was a risk to the public at present or that he would ever do anything that put the public at risk. Termination of his membership would prevent him from making the contribution to society that he wished to.

Decision on sanction and reasons

In reaching its decision, the Panel took account of the need to protect the public, 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 and noting that it had sanctions available to it which were both those prescribed by the Code of Ethics and Fitness to Practise Rules and those set out in the Examination Regulations.

In terms of the Fitness to Practise Rules, the Panel considered reprimanding Mr Babatola 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 Mr Babatola 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 considered the removal of Mr Babatola's registration status and concluded that that was insufficient to protect the public or mark the public interest.

Finally, the Panel went on to consider terminating Mr Babatola's membership of CIEH. It considered that this was the appropriate sanction given its very serious findings of fact, particularly in respect of the dishonesty at the centre of this case.

Whilst it acknowledged that this sanction would, potentially, have an adverse impact on Mr Babatola, the public interest in this case outweighed his personal interests. This was the only sanction available which, in the view of the Panel, marked the seriousness of the matters found proved.

In respect of the powers available to it under the Examination Regulations, the panel determined that (in accordance with the provisions of Rule 56.1), Mr Babatola should be precluded from resitting the assessment for a period of twelve months.

Right of appeal

The Panel noted the provisions in the Rules for Mr Babatola 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 Mr Babatola 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 November 2023
at 15 Hatfields, London SE1 8DJ**

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

Applicant:	Samuel Babatola
Panel members:	Ronald Barham (lay member) Andrew Baum (Chair, lay member) Alan Higgins (professional member)
Hearing Co-ordinator:	Andrew Harvey
Mr Babatola:	Neither present, not represented
Chief Executive, CIEH:	Represented by Jon Buttolph
Appeal outcome:	Appeal refused

Decision and reasons on notice of hearing

At 1000 on the day of this hearing, Mr Babatola had not arrived at the venue. The Appeal Panel (“the Panel”) directed CIEH to make attempts to contact him and adjourned its consideration of this matter until 1030 to allow that to be done.

At 1015, the Panel reconvened at Mr Buttolph’s request; he explained to the Panel that a voicemail message had been left for Mr Babatola and an e-mail sent to him.

At 1030, the Panel determined to adjourn for a further 15 minutes to allow Mr Babatola an opportunity to either attend the hearing venue or to contact CIEH.

When the hearing commenced, at 1045, Mr Buttolph told the Panel that Mr Babatola was not in attendance and that, in accordance with Rule 13.4 of CIEH’s ‘Code of Ethics for Members and Fitness to Practise Rules’ (“the Rules”), a notice of hearing had been sent to Mr Babatola’s registered e-mail and postal addresses on 26 July 2023. Mr Babatola had confirmed receipt of the e-mail on the same date. Mr Buttolph submitted that CIEH had complied with the requirements of Rule 13.4.

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 time, date and venue of the hearing and, amongst other things, information about Mr Babatola’s right to attend, be represented and call evidence as well as the Panel’s power to proceed in his absence.

Having considered all of the information before it, the Panel was satisfied that Mr Babatola had been served with the notice of hearing, in accordance with the requirements of Rule 13.4.

Decision and reasons on proceeding in the absence of Mr Babatola

The Panel next considered whether it should proceed in the absence of Mr Babatola. It 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 Mr Babatola, he had acknowledged receipt on the same day. He submitted that CIEH had made it clear to Mr Babatola that it had confirmed the date, time and place of the hearing.

In response to a question from the Panel, Mr Buttolph explained that Mr Babatola had not asked to attend the hearing remotely.

The Panel heard and accepted the advice of the Hearing Co-ordinator.

He reminded the Panel 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*.

He further reminded the Panel of the principles espoused in the case of *Viridi v Law Society of England and Wales [2010] 1 WLR 2840*. The principles set out in that 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.

The Panel decided to proceed in the absence of Mr Babatola.

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 Mr Babatola;
- No application for an adjournment has been made by Mr Babatola;
- There is no reason to suppose that adjourning would secure his attendance at some future date;

There may be some disadvantage to Mr Babatola in proceeding in his absence, although the written evidence upon which he relies is before this Panel. He will not be able to address any submissions made by CIEH in person and will not be able to give evidence on his own behalf.

However, in the Panel's judgement, the limited disadvantage is the consequence of Mr Babatola's decision to absent himself from the hearing, waive his rights to attend, and/or be represented and to not make further, oral, submissions.

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

The Panel will draw no adverse inference from Mr Babatola's absence in its findings.

Background to this appeal hearing

At a fitness to practise hearing, held on 28 March 2023, a Fitness to Practise Panel ("the FTP Panel") considered the following allegations:

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

- 1 *You are currently undergoing CIEH's pathway to become a Registered Food Safety Practitioner.*
- 2 *Part of this pathway includes completing the Competency Development Portfolio (CDP), for which you submitted the required workplace activities.*
- 3 *The signature and name of the person purporting to verify the competencies demonstrated in your CDP were applied fraudulently, without their knowledge.*
- 4 *That your actions at 3 (above) were:*
 - a. *Misleading*
 - b. *Lacking in integrity*
 - c. *Dishonest*

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

Mr Babatola attended the substantive hearing of his case.

CIEH's case was presented by Jon Buttolph who called a witness, Reuben Runghasawmi.

The Panel was provided with the determination of the FTP Panel which considered Mr Babatola's case. The FTP Panel found each allegation proven, that Mr Babatola's practise was currently impaired. It ordered that his membership of CIEH be terminated and that he should be excluded from further education assessment for a period of 12 months.

Mr Babatola was sent the FTP Panel's determination on 17 April 2023 and his right to appeal was explained to him. He submitted an appeal on 9 May 2023.

He was served notice of this appeal hearing on 26 July 2023 and it was explained to him that CIEH would not be calling witnesses but that he was free to do so; if he wished to call witnesses, he must advise CIEH. He did not provide such notice.

Background to appeal

On 9 May 2023, Mr Babatola set out his grounds of appeal in a letter to CIEH's Chief Executive. In that letter, he submitted that Rules 13.1.1 and 13.1.4 of the Rules were engaged. He submitted that the decision of the FTP Panel was unreasonable given the evidence placed before it and that the sanction was disproportionate. He said:

1. ***"The [FTP] Panel did not evaluate the submission of the Appellant into its decision: this is so especially with the aspect of discrimination, victimisation, and emotional distress which the Appellant was subjected to and lack of necessary support that the other students enjoyed. That, in its sense, are risk factors for committing the offence. Details are in the plea to the [FTP] Panel. However, the [FTP] Panel did not at anytime refer to it throughout the hearing. And the matter of discrimination and victimisation was not mentioned in the copy of the determination that was sent to the Appellant.***
2. ***Unsatisfactory submission on impairment: In making its decision on submission of impairment, the [FTP] Panel mentioned that it considered the unprofessional conduct of the Appellant and the possibility of future recurrence. The [FTP] Panel mentioned that its decision on impairment bore from the absence of insight on the part of the Appellant. How? The Appellant is not just a member but a chartered member at that. The Appellant's claim that he did not ascribe importance to the programme was as a result of the following image [redacted]:***
The [FTP] Panel could not justify any previous misconduct on the side of the Appellant on risk of repetition. On the other hand, the Appellant has history of professional repute. It is indeed confirmed by Learn [sic] Perry coupled with other notable environmental health related projects the Appellant had completed in the last years, some of which were published in international journals. It is evident that this misconduct was as a result of lack of necessary support on the part of the employer, which is indeed a requirement of the programme.
3. ***The Appellant has no history of any misconduct: it was stunning that the [FTP] Panel deemed it fit to terminate the Appellant's membership based on the supposed serious nature of finding of facts. Emails from the Appellant to the complainant and those to the panel did not suggest***

at any point that the Appellant is dishonest. Even the complainant had previously thanked the Appellant for his honest email and same was done by Leanne Perry.

The Appellant did not at any time deny the misconduct and all claims made were backed with email evidence which are verifiable.

4. **On the ground of public protection:** This offence is not directly against the public, at least to the best of the Appellant's knowledge. The person of Leanne P., who is directly impacted by the offence is a leader in the industry and she understood what led to this offence. And assuming that this offence might be repeated is tantamount to promoting injustice, lack of diversity and inclusion in the industry, which is one of the major factors that is debilitating the prospect of the profession. The Appellant has submitted that the fear of losing all his investment in terms of funds, time and efforts over the years to keep up with the demands in spite of the requisite technical supports propelled him to assume the obvious on behalf of his supervisor knowing fully well that he was unlikely going to have her audience to attend to those administrative attestation at a time it became urgent; and not been part of the credit score of the programme, he was persuaded to believe that he could attest on her behalf and secure her awareness to the facts at a later time – afterall, there is evidence to show that all the said documents had been sent to her mail yet unattended to long before its submission became urgent.
5. **The Appellant believe that the sanction is harsh:** the Appellant is not proud of his misdeed neither does he long for it to be unduly condoned. He merely seeks for remediation under a just and fair atmosphere. He sincerely feels sorry and has apologised to all relevant persons and body. He believed that extension of programme or fine would inflict enough pain, reprimanding and deterrence that the organisation sought to achieve by purging itself of the misconduct. Complete elimination from membership and consequent termination from all prospective jobs to take care of his family is not only harsh but not helpful to the society that strive to make and rehabilitate rather than mar men [sic].
6. **The sanction is not proportionate to the offence committed:** The Appellant demonstrated remorse and sought for remediation. With all indication, the Appellant regrets his action and felt sober for the offence committed, and has done everything possible to make amends, including apologies to Leanne Perry, who mentioned that she would not be taking the matter further. And the Appellant arranged a meeting with Leanne and the rest of the team to discuss the matter in details and apologies were rendered accordingly.
7. **The Appellant sincerely plead for clemency:** in the corollary, the Appellant appeal to this noble hallowed body to show him leniency while punishing him for his misdeed and sincerely vows not to allow such wrong to repeat itself. Most obliged.”

Panel consideration of Mr Babatola's appeal

The Chair noted that Mr Babatola had sent written submissions in advance and that the Panel had had the opportunity to consider these in advance of today's hearing. The Chair invited Mr Buttolph to comment on Mr Babatola's submissions, should he wish to do so on behalf of CIEH.

Mr Buttolph submitted that Ground 1 was simply speculation. It appeared that Mr Babatola's case was that he was insufficiently supported. CIEH could find no evidence that supported this view, beyond Mr Babatola's broad submission.

Mr Buttolph went on to submit that, in respect of Ground 2, it appeared that this Panel was being invited to go behind the FTP Panel's decision. He submitted that, at the substantive hearing, Mr Babatola seemed not to accept that the actions found as proven by the FTP Panel were improper. He noted that Mr Babatola was not currently a member, Chartered or otherwise.

He went on to note, in respect of Ground 3, that the FTP Panel appeared to have reached the conclusions that it did on the basis of the evidence before it, notwithstanding any previous good conduct ascribed to Mr Babatola.

Mr Buttolph addressed the Panel in respect of Ground 4. He submitted that matters of both public protection and public interest were engaged in this case. He made the point that environmental health practitioners' work is firmly focused on public protection and that their work extended to signing notices, participating in legal proceedings and the like. The use of others' signatures without their consent had clear and obvious public protection and legal risk.

In respect of Ground 5, Mr Buttolph submitted that it was not uncommon for those in regulatory proceedings to feel that an outcome was harsh. It was CIEH's position that the decision reached by the FTP Panel was both proper and entirely consistent with other similar such decisions. CIEH relied on the same basis of submission in respect of Ground 6.

Finally, in respect of Ground 7, Mr Buttolph submitted that Mr Babatola's position was not a proper basis for appeal and did not support, on any reading, the contention that the Panel should interfere with the original decision.

It was CIEH's position that the original determination of the FTP Panel should remain unchanged.

In response to Panel questions, Mr Buttolph explained that not all CIEH assessments required those taking them to be a member and that it would be open, at a later date and subject to the outcome of this hearing, for Mr Babatola to apply for readmission. When any such application were received, the relevant decision-maker would have details of these proceedings.

Mr Buttolph went on to confirm that, as membership of CIEH was not a 'licence to practise', loss of membership need not prevent Mr Babatola from working in the profession, albeit that some employers may choose not to employ a person who had been the subject of adverse findings in a fitness to practise process. In respect of proportionality, the FTP Panel would have given thought to each of the potential sanctions and, in the view of CIEH, reached a proportionate outcome.

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.

Decision and reasons

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 gave careful consideration to the evidence of both parties and the advice it had received.

It concluded that there was no evidence before it which would permit it to conclude that the decisions on facts of the FTP Panel was either unreasonable or incorrect. There was cogent and wide-ranging evidence and it concluded that nothing new had been presented to this Panel which would undermine the finding of facts made.

It determined, therefore, that it should consider the issue of proportionality of sanction. It noted that the purpose of a sanction in this jurisdiction was not to punish, although such a sanction may have a punitive effect.

The Panel considered that the Applicant appeared to fail to understand the seriousness of the matters found proven and the impact that they were likely to have on both the protection of the public and the reputation of the profession. It was particularly noteworthy that the evidence of members of CIEH may need to be relied upon by others in matters of both public protection and in legal proceedings. The Panel considered that the sanction decision reached by the FTP Panel was not disproportionate, and should not be disturbed.

Having given careful consideration to the submissions of both parties, the Panel determined that Mr Babatola'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 Mr Babatola 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.