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## FINAL NOTICE

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**To:** David Nicholas King  
**IRN:** DNK01016  
**Dated:** 17 May 2023

### 1. ACTION

- 1.1 For the reasons given in this Final Notice, the Authority has decided to refuse an application by Mr David Nicholas King to vary the Prohibition Order imposed on him on 22 July 2021.
- 1.2 The Authority gave Mr King a Decision Notice on 13 March 2023, which notified Mr King of the above decision in relation to his Application.
- 1.3 Mr King has not referred the matter to the Tribunal within 28 days of the date on which the Decision Notice was given to him.
- 1.4 Accordingly, the Authority hereby refuses the Application by Mr King to vary the Prohibition Order imposed on him.

### 2. SUMMARY OF REASONS

- 2.1 On 22 July 2021, the Authority issued the 2021 Final Notice which imposed the Prohibition Order on Mr King. The Prohibition Order prohibited Mr King from performing any function in relation to any regulated activity carried on by any authorised person, exempt person or exempt professional firm.
- 2.2 The Prohibition Order was imposed on Mr King after he had been convicted in October 2019 of three counts of theft, one count of fraud by false representation and one count of acquiring/using/possessing criminal property. The Authority concluded that these convictions demonstrate that Mr King is not a fit and proper person to perform functions in relation to regulated activities, and that it was therefore appropriate to impose the Prohibition Order.
- 2.3 On 1 February 2022, Mr King submitted an application ("the Application") for the variation of the Prohibition Order under section 56(7) of the Act so as to permit him to carry on

the regulated activity of “assisting in the administration and performance of a contract of insurance”. Mr King stated in the Application that the variation was necessary to progress an application for employment with a specific rural chartered surveying firm (“the Prospective Employer”). Mr King has subsequently provided further information concerning the possibility of his pursuing a paid summer internship with a national property adviser (“the Prospective Internship”), as well as completing the RICS qualification while working for a private landlord (“the Prospective Private Landlord Employment”) who undertakes its own in-house estate management activities

2.4 Having considered all the relevant circumstances of the case, the Authority has decided to refuse the Application for the following reasons:

- i) Mr King engaged in criminal activity over a prolonged period (2010 – 2017), when he stole, or obtained by fraud, around £608,000 from family members and a friend. In so doing, Mr King demonstrated a clear and serious lack of honesty and integrity.
- ii) On 21 November 2019, Mr King was sentenced to a total term of six years and four months’ imprisonment. Mr King was released from prison on 19 January 2023 and is serving the remainder of his custodial sentence in the community on licence. Mr King has therefore had insufficient opportunity to demonstrate that he has remedied the Authority’s concerns over his honesty and integrity. He has not been in situations in which the same or similar opportunities for reoffending could occur, because of the restrictions and limitations in place. Accordingly, the Authority considers that the Application is premature.
- iii) Mr King has provided insufficient evidence of the roles he hopes to pursue at the Prospective Employer, Prospective Internship or Prospective Private Landlord Employment, and the safeguards that would be in place were he to secure employment. Moreover, it is not apparent that a variation of the Prohibition Order is necessary for Mr King to pursue his chosen profession in rural chartered surveying.

2.5 Accordingly, the Authority is not satisfied that the unfitness which gave rise to the Prohibition Order has been remedied, and that, were the Prohibition Order to be varied, this would not result in a reoccurrence of the risk to consumers and/or to the integrity of the UK financial system that resulted in the Prohibition Order being made; nor that Mr King is now fit and proper to perform functions in relation to regulated activities.

### **3. DEFINITIONS**

3.1 The definitions below are used in this Final Notice:

“the 2020 Warning Notice”; means the warning notice given to Mr King dated 17 December 2020;

“the 2021 Decision Notice” means the decision notice given to Mr King dated 13 May 2021;

“the 2021 Final Notice” means the final notice given to Mr King dated 22 July 2021;

“the Act” means the Financial Services and Markets Act 2000;

“the Application” means the application made by Mr King on 1 February 2022 to vary the Prohibition Order;

“the Authority” means the Financial Conduct Authority;

“the Decision Notice” means the decision notice given to Mr King dated 13 March 2023;

“EG” means the Authority’s Enforcement Guide;

“FIT” means the ‘Fit and Proper Test for Employees and Senior Personnel’, forming part of the Handbook;

“the Handbook” means the Authority’s Handbook of Rules and Guidance;

“the Prohibition Order” means the prohibition order imposed on Mr King on 22 July 2021;

“the Prospective Employer” has the meaning set out in paragraph 2.3 of this Final Notice;

“the Prospective Internship” has the meaning set out in paragraph 2.3 of this Final Notice;

“the Prospective Private Landlord Employment” has the meaning set out in paragraph 2.3 of this Final Notice;

“RDC” means the Regulatory Decisions Committee of the Authority (see further at paragraph 7.3 below);

“RICS” means the Royal Institution of Chartered Surveyors;

“the Tribunal” means the Upper Tribunal (Tax and Chancery Chamber); and

“the Warning Notice” means the warning notice given to Mr King dated 7 December 2022.

#### **4. FACTS AND MATTERS**

##### Background

- 4.1 Whilst an employee of, and an approved person at, authorised firms, Mr King engaged in the following criminal offences:
  - 4.1.1 three counts of theft, contrary to sections 1(1) and 7 of the Theft Act 1968;
  - 4.1.2 one count of fraud by false representation, contrary to sections 1 and 2 of the Fraud Act 2006; and
  - 4.1.3 one count of acquiring, using and possessing criminal property, contrary to sections 329(1) and 334 of the Proceeds of Crime Act 2002.
- 4.2 These offences occurred from 1 February 2010 to 31 December 2017 and the total amount stolen, or obtained by fraud, from the victims was in the region of £608,000.
- 4.3 Mr King committed fraud on his family members by taking their share of his grandparents’ estate which they had inherited, amounting to approximately £573,000, and using it to fund his own lifestyle. Mr King committed an additional fraud against a friend when he

personally guaranteed bridging finance on a property purchase, intending to make a gain of £35,000 for himself.

- 4.4 On 3 October 2019, Mr King pleaded guilty to and was convicted of the above offences at Sheffield Magistrates Court.
- 4.5 On 21 November 2019, Mr King was sentenced at Sheffield Crown Court to a total term of six years and four months' imprisonment.
- 4.6 At the sentencing hearing, the judge made the following observations:
  - 4.6.1 Mr King "connived and contrived" to hide his dishonesty; he "forged documents"; and he "lied to family and friends and repeated those lies time and... time again...";
  - 4.6.2 Mr King's behaviour was "utterly selfish" and he "did not have a care in the world for the impact and psychological harm" that he had caused others;
  - 4.6.3 as regards the degree of trust breached by Mr King, it was "...beyond high; if it's not trust, it's responsibility";
  - 4.6.4 in respect of count 1, which related to Mr King stealing over £500,000 from the estate of his grandmother, there "was almost every imaginable aggravating feature"; and
  - 4.6.5 although Mr King had returned £305,000 of the money he had taken, it was only returned because he was "caught out".
- 4.7 By reason of the above facts and matters, the Authority considered that Mr King lacked honesty and integrity and posed a serious risk to consumers, financial institutions and to confidence in the market generally, and that he was not a fit and proper person to perform functions in relation to regulated activities and so should be prohibited from performing such functions. Following the issue of the 2020 Warning Notice on 17 December 2020, Mr King made representations as to why the Prohibition Order should not be imposed (as set out in Annex B of the 2021 Final Notice). Having taken these into account, on 13 May 2021, the Authority issued the 2021 Decision Notice. Mr King did not exercise his right to refer the matter to the Tribunal and therefore, on 22 July 2021, the Authority made the Prohibition Order against Mr King and issued the 2021 Final Notice notifying him of this.

#### The Application

- 4.8 On 1 February 2022, Mr King applied to vary the Prohibition Order to permit him to carry on the regulated activity of "assisting in the administration and performance of a contract of insurance".
- 4.9 Mr King explained in the Application that the fact that the Prohibition Order does not permit him to carry on that activity impedes his ability to obtain employment as a rural chartered surveyor at the Prospective Employer, which engages in regulated insurance activities.
- 4.10 The key grounds cited by Mr King in support of the Application are, in summary, as follows:

- 4.10.1 the variation is necessary to progress an application for employment with the Prospective Employer;
  - 4.10.2 he has taken full accountability for the offences committed and there has been no repeat offending;
  - 4.10.3 his offences were not committed while undertaking the regulated activity in respect of which he now seeks a variation;
  - 4.10.4 he has been sufficiently rehabilitated and no longer poses a risk to consumers and confidence in the UK financial system, as evidenced by: (i) his enrolment in a charitable outreach programme; and (ii) character references which he has provided;
  - 4.10.5 any risk he continues to pose will be mitigated by the checks and safeguards in place at the Prospective Employer;
  - 4.10.6 he will only be "assisting a Director level partner" in relation to insurance related work for the initial two year training period at the Prospective Employer, and he does not anticipate he would carry out this activity on his own account until a further three years thereafter;
  - 4.10.7 he is under no financial duress which may lead to re-offending;
  - 4.10.8 following his release from prison in January 2023, he will serve the remainder of his sentence under licence until March 2026, and during this time he can be recalled to prison for suspected offending;
  - 4.10.9 the Application is to vary the Prohibition Order in a limited respect rather than for wholesale revocation; and
  - 4.10.10 he is willing for any variation to the Prohibition Order to be "tied" to the regulated work of a particular firm, such as the Prospective Employer.
- 4.11 Mr King was released from prison on 19 January 2023 and is now serving the remainder of his custodial sentence in the community on licence. Mr King has since informed the Authority that the variation is also necessary for him to be able to pursue the Prospective Internship, and that he wishes to be able to complete his RICS qualification through the Prospective Private Landlord Employment.

## **5. LACK OF FITNESS AND PROPRIETY**

- 5.1 The statutory and regulatory provisions relevant to this Notice are set out in detail in Annex A.
- 5.2 Having considered all the relevant circumstances and having regard to the provisions of EG 9.6.1, the Authority has decided to refuse the Application for the following reasons.
- 5.3 The nature and circumstances of Mr King's offending demonstrate a serious and clear lack of honesty and integrity:
  - 5.3.1 he committed the offences against family members and a friend, thereby abusing the position of trust he held;

- 5.3.2 certain of his offences involved him taking advantage of vulnerable victims;
  - 5.3.3 he committed multiple offences over a prolonged period (1 February 2010 to 31 December 2017);
  - 5.3.4 he obtained a substantial economic benefit from his offences (although he has since repaid £305,000 of such benefit to the victims); and
  - 5.3.5 the sentencing judge was particularly critical of his behaviour.
- 5.4 Although Mr King says he has accepted full responsibility for his offending, as well as progressed with his rehabilitation, in the Authority's view the Application is premature for the following reasons:
- 5.4.1 Approximately three and a half years have passed since Mr King was convicted (on 3 October 2019) and just under two years since the Prohibition Order was imposed (on 22 July 2021). While the Authority does not specify a minimum period after which it will consider an application for variation or revocation of a prohibition order, the passage of time is relevant insofar as it allows an individual to rehabilitate and to demonstrate this. The Authority is not satisfied that Mr King has had sufficient time and opportunity to rehabilitate. Mr King has only recently been released from prison and is serving the remainder of his sentence in the community on licence; he acknowledges that the probation order to which he is subject acts as a serious deterrent to repeat offending. Mr King has thus far been unable to provide sufficient evidence of having been in a role which gives rise to relevant opportunities for re-offending. The Authority is of the view that until he has served his sentence in full and re-entered society without restriction, his honesty and integrity cannot be properly tested.
  - 5.4.2 Insufficient evidence has been provided by Mr King for the Authority to conclude that he has been rehabilitated. The Authority acknowledges that character references written by family members show that Mr King has sought to rebuild relationships with the victims of his offending. However, neither they, nor the other testimonials submitted by Mr King, provide evidence of his conduct in situations where he was exposed to relevant opportunities for re-offending.
- 5.5 In the circumstances, the Authority is not satisfied that the unfitness which gave rise to the Prohibition Order has been remedied and will not occur again.
- 5.6 Further, a number of statements by Mr King in respect of the roles he is pursuing at the Prospective Employer, the Prospective Internship and the Prospective Private Landlord Employment are not supported by any documentary evidence. For example, Mr King says that the contracts of insurance he would be dealing with at the Prospective Employer are "considerably low risk" to the public and the UK financial system, and that his involvement with them would be limited. However, Mr King has been unable to provide the Authority with full details of what the role he hopes to obtain at the Prospective Employer would entail, the types of contracts of insurance he would be dealing with and the activities he would be carrying out in respect of these. Mr King has also been unable to provide the Authority with evidence of the Prospective Employer's checks and safeguards against any future risk as the Prospective Employer has not shared this information with him. As Mr King's applications for the Prospective Internship and the Prospective Private Landlord Employment are in their early stages, Mr King has also been unable to provide the Authority with any documentary

evidence demonstrating the precise nature of the roles and responsibilities involved, to enable it to be satisfied that the Prohibition Order should be varied. Accordingly, the Authority has been provided with insufficient evidence and information to determine whether the roles are sufficiently limited to mitigate adequately the risk Mr King poses to consumers and the integrity of the UK financial system.

- 5.7 Mr King has further stated that, as the Prospective Employer does not carry on investment business, there is no risk of a reoccurrence of the risks to the public related to his previous offending. However, insurance related work may in certain circumstances give rise to opportunities for re-offending and misconduct, such as (among other things) misappropriating client money, failing to pass on claim proceeds in full and non-disclosure of commission.
- 5.8 To allay the Authority's concerns, Mr King has suggested that the proposed variation could be "tied" to the regulated insurance work of a particular firm, such as the Prospective Employer. However, without evidence of the specific measures and controls in place at the Prospective Employer, which has told Mr King that it does not wish to divulge details of its internal procedures, the Authority cannot assess in its consideration of the Application whether there are sufficient safeguards to eliminate the risk that Mr King poses.
- 5.9 The Authority has also had regard to Mr King's financial position. Mr King has a history of failing to manage his financial affairs soundly, resulting in his bankruptcy in October 2019. Although he has since been discharged from bankruptcy, the Authority notes that the Insolvency Service has imposed additional bankruptcy restrictions for a period of 12 years following discharge (i.e. until October 2032), and Mr King is not in current employment. The Authority therefore considers Mr King's current financial position to be uncertain.
- 5.10 The Authority accepts that the Prohibition Order may have adverse effects on Mr King's career advancement but considers that this is not disproportionate when weighed against the harm that the Prohibition Order is intended to avoid.
- 5.11 In this regard, the Authority notes that Mr King has not yet been provided with an offer of employment from the Prospective Employer, nor confirmation of his place at either the Prospective Internship or of the Prospective Private Landlord Employment, and from the evidence provided by Mr King it does not appear that such an offer from the Prospective Employer will necessarily be forthcoming if the Prohibition Order is varied.
- 5.12 It is also not apparent that a variation of the Prohibition Order is necessary for Mr King to pursue his chosen profession in rural chartered surveying, as there may be other employers in the industry who have no concurrent insurance business. Mr King has provided no evidence or information in this respect. Nor does it appear to the Authority from the materials provided by Mr King that engaging in insurance-related work is a pre-requisite for qualifying as a RICS rural chartered surveyor.
- 5.13 Having regard to the provisions in EG 9.6, and for the reasons set out in paragraphs 5.3 to 5.12 above:
- 5.13.1 The Authority is not satisfied that Mr King no longer poses a risk to consumers, or to the integrity of the UK financial system, particularly in view of the absence of sufficient evidence of rehabilitation.

5.13.2 The Authority is not satisfied that, were the Prohibition Order to be varied, this would not result in a reoccurrence of the risks to consumers and to the integrity of the UK financial system, that resulted in the Prohibition Order being made.

5.13.3 The Authority is not satisfied that Mr King is a fit and proper person to perform any functions in relation to regulated activities by reference to the criteria in FIT, specifically FIT 2.1 (honesty, integrity and reputation) and FIT 2.3 (financial soundness).

5.13.4 The Authority is satisfied that it is not disproportionate to refuse the Application to vary the Prohibition Order in the terms sought, as the negative impact on Mr King's career prospects is outweighed by the need to protect against the ongoing risks he represents to consumers and to the integrity of the UK financial system.

## **6. REPRESENTATIONS**

6.1 Annex B contains a brief summary of the key representations made by Mr King and how they have been dealt with. In making the decision which gave rise to the obligation to give this Final Notice, the Authority has taken into account all the representations made by Mr King, whether or not set out in Annex B.

## **7. PROCEDURAL MATTERS**

7.1 This Final Notice is given to Mr King under, and in accordance with, Section 390(1) of the Act.

7.2 The following paragraphs are important.

### **Decision Maker**

7.3 The decision which gave rise to the obligation to give this Final Notice was made by the RDC. The RDC is a committee of the Authority which takes certain decisions on behalf of the Authority. The members of the RDC are separate to the Authority staff involved in conducting investigations and recommending action against firms and individuals. Further information about the RDC can be found on the Authority's website:

<https://www.fca.org.uk/about/committees/regulatory-decisions-committee-rdc>

### **Publicity**

7.4 Sections 391(4), 391(6) and 391(7) of the Act apply to the publication of information about the matter to which this Final Notice relates. Under those provisions, the Authority must publish such information about the matter to which this Final Notice relates as the Authority considers appropriate.

7.5 The information may be published in such manner as the Authority considers appropriate. However, the Authority may not publish information if such publication would, in the opinion of the Authority, be unfair to Mr King or prejudicial to the interests of the consumers or detrimental to the stability of the UK financial system.

7.6 The Authority intends to publish such information about the matter to which this Final Notice relates as it considers appropriate.

### **Authority Contacts**

7.7 For more information concerning this matter generally, contact Shehraz Hussain at the Authority (direct line: 020 7066 8006/email: shehraz.hussain@fca.org.uk).

**Anna Couzens**

**Threshold Conditions Team Manager**

**Financial Conduct Authority, Enforcement and Market Oversight**

## **ANNEX A**

### **RELEVANT STATUTORY AND REGULATORY PROVISIONS**

1. The Authority's operational objectives are set out in section 1B(3) of the Act and include securing an appropriate degree of protection for consumers (section 1C of the Act) and protecting and enhancing the integrity of the UK financial system (section 1D of the Act).
2. Section 56(7) of the Act states that the Authority may, on the application of the individual named in a prohibition order made by it, vary or revoke it.
3. Section 58 of the Act sets out the procedure for granting or refusing an application for variation or revocation of a prohibition order.
4. In considering whether to grant or refuse an application for the variation or revocation of a prohibition order, the Authority must have regard to relevant provisions in the Handbook. The main provisions that the Authority considers to be relevant to this case are set out below.

#### *The Enforcement Guide*

5. The Authority's approach to exercising its power to grant or refuse an application for the variation or revocation of a prohibition order is set out in Chapter 9.6 of EG.
6. EG 9.6.1 provides that, when considering whether to grant or refuse an application to revoke or vary a prohibition order, the Authority will consider all the relevant circumstances of a case. These may include, but are not limited to, the following:
  - (1) the seriousness of the misconduct or other unfitness that resulted in the order;
  - (2) the amount of time since the original order was made;
  - (3) any steps taken subsequently by the individual to remedy the misconduct or other unfitness;
  - (4) any evidence which, had it been known to the Authority at the time, would have been relevant to the Authority's decision to make the prohibition order;
  - (5) all available information relating to the individual's honesty, integrity or competence since the order was made, including any repetition of the misconduct which resulted in the prohibition order being made;
  - (6) where the Authority's finding of unfitness arose from incompetence rather than from dishonesty or lack of integrity, evidence that this unfitness has been or will be remedied; for example, this may be achieved by the satisfactory completion of relevant training and obtaining relevant qualifications, or by supervision of the individual by his employer;
  - (7) the financial soundness of the individual concerned; and
  - (8) whether the individual will continue to pose the level of risk to consumers or confidence in the financial system which resulted in the original prohibition if it is lifted.

7. EG 9.6.3 provides that if the individual applying for a revocation or variation of a prohibition order proposes to take up an offer of employment to perform a controlled function, the Authority will take this into account when considering whether to grant or refuse the application.
8. EG 9.6.4 provides that the Authority will not generally grant an application to vary or revoke a prohibition order unless it is satisfied that: the proposed variation will not result in a reoccurrence of the risk to consumers or confidence in the financial system that resulted in the order being made; and the individual is fit to perform functions in relation to regulated activities generally, or to those specific regulated activities in relation to which the individual has been prohibited. The Authority will assess the individual's fitness and propriety to perform these functions on the basis of the criteria in FIT 2.1 (Honesty, integrity and reputation), FIT 2.2 (Competence and capability) and FIT 2.3 (Financial soundness).

*The Fit and Proper test for Employees and Senior Personnel sourcebook (FIT)*

9. FIT sets out the criteria that the Authority will consider when assessing the fitness and propriety of a candidate for a controlled function, and may consider when assessing the continuing fitness and propriety of approved persons (FIT 1.1.2G(2)).
10. The main assessment criteria to which the Authority will have regard when assessing the fitness and propriety of a person to perform a particular controlled function are described in FIT 2, by reference to: honesty, integrity and reputation (FIT 2.1); competence and capability (FIT 2.2); and financial soundness (FIT 2.3).
11. FIT 2.1.1 G provides that in determining a person's honesty, integrity and reputation, the Authority will have regard to all relevant matters including, but not limited to, those set out in FIT 2.1.3 G.
12. In relation to convictions for criminal offences, FIT 2.1.1A G states that: If any staff being assessed under FIT has a conviction for a criminal offence, the firm should consider the seriousness of and circumstances surrounding the offence, the explanation offered by that person, the relevance of the offence to the proposed role, the passage of time since the offence was committed and evidence of the individual's rehabilitation.
13. FIT 2.1.3 G provides a non-exhaustive list of matters to which the Authority will have regard when determining a person's honesty, integrity and reputation. These include:
  - (1) whether the person has been convicted of any criminal offence; this must include, where provided for by the Rehabilitation Exceptions Orders to the Rehabilitation of Offenders Act 1974 or the Rehabilitation of Offenders (Northern Ireland) Order 1978 (as applicable), any spent convictions; particular consideration will be given to offences of dishonesty, fraud, financial crime or an offence under legislation relating to companies, building societies, industrial and provident societies, credit unions, friendly societies, banking, other financial services, insolvency, consumer credit companies, insurance, consumer protection, money laundering, market manipulation and insider dealing, whether or not in the United Kingdom;
  - ...
14. FIT 2.3.1 G provides a non-exhaustive list of factors to which the Authority will have regard when determining a person's financial soundness. These include:

- (1) whether, in the United Kingdom or elsewhere, the person has made any arrangements with their creditors, filed for bankruptcy, had a bankruptcy petition served on them, been adjudged bankrupt, been the subject of a bankruptcy restrictions order (including an interim bankruptcy restrictions order), offered a bankruptcy restrictions undertaking, had assets sequestrated, or been involved in proceedings relating to any of these.

## **ANNEX B**

### **REPRESENTATIONS**

1. A summary of the key representations made by Mr King, and the Authority's conclusions in respect of them (in **bold**), is set out below.

#### The Application is not premature

2. The Application is not premature as it was sought with a view to securing a role at the Prospective Employer. Any graduate employment secured at the Prospective Employer would only commence in September 2023, some 9 months after Mr King's release from prison. However, Mr King has been unable to proceed with a summer internship or a graduate placement with the Prospective Employer due to there being no variation to the Prohibition Order in time.
3. Mr King is also pursuing a paid, month-long, Prospective Internship with a national property adviser; should that internship be unsuccessful, then Mr King would apply for their Winter 2023 graduate scheme intake, with employment to commence in September 2024.
4. The Application should not be refused on the basis that Mr King has not been placed in a position of trust with responsibility for monies since his conviction. As the Prohibition Order prevents Mr King from undertaking regulated functions, it is unrealistic to expect Mr King to have gained this experience prior to making the Application.
5. **In order to be satisfied that it is appropriate to vary the Prohibition Order, the Authority needs to be satisfied that Mr King no longer poses a risk to consumers or to the integrity of the UK financial system. The burden of proving that he is fit and proper lies with Mr King. The Authority considers that strong and compelling evidence that Mr King no longer poses a risk is needed in order to grant a variation of the Prohibition Order, in circumstances where Mr King is serving the remainder of his custodial sentence in the community on licence, as the temptation to re-offend may be outweighed by the threat of a return to prison. Mr King has not provided such evidence, and in light of his recent release from prison is not yet in a position to do so.**
6. **The Authority recognises that Mr King has made the Application to assist with his employment applications, but considers that the negative impact on his career prospects is outweighed by the need to protect against the ongoing risks he presents to consumers and to the integrity of the UK financial system. As Mr King has not yet been able to demonstrate that he has remedied the Authority's concerns regarding his honesty and integrity, the Authority remains of the view that the Application is premature.**
7. **Mr King's Prospective Internship and Prospective Private Landlord Employment indicate that his prospects of employment are not wholly contingent on varying the Prohibition Order. It may therefore be possible for him to gain experience in his chosen sector, where his honesty and integrity will be tested in roles where there are opportunities for re-offending. It is also open for Mr King to consider roles outside that sector, which do not require a variation of the Prohibition Order, that would enable him to demonstrate his honesty and integrity.**

The variation is needed for Mr King to complete his RICS rural professional qualification

8. The variation of the Prohibition Order is needed so that Mr King can undertake the insurance work (as stipulated under the Designated Professional Body ("DPB") licence) required for the core competency property management module which must be studied as part of the RICS rural professional qualification which Mr King wishes to obtain. The insurance work undertaken would encompass buildings and contents insurance, public liability insurance, landlords' policies to cover rental voids and commercial building and contents insurance depending on the terms of repairing obligations imposed on either landlord or tenant through the terms of the lease.
9. The Prospective Employer has made it clear in an email to Mr King that the property management module must be studied in order to complete the RICS qualification. Email correspondence between the RICS and Mr King also demonstrates that not only would Mr King need to find employment at a suitable firm, but that he would also need a RICS-accredited counsellor to be satisfied of his fitness and propriety.
10. **The Authority has taken into account the email correspondence between the Prospective Employer and Mr King. The correspondence relates to Mr King's enquiries about the safeguards which are or would be in place at the Prospective Employer, and the Authority considers that it does not address whether in general Mr King is required to undertake insurance-related work in order to complete the property management module and thus obtain the RICS qualification.**
11. **The Authority has also considered the email correspondence between Mr King and the RICS, in which Mr King enquired how he would obtain a RICS qualification if he were to gain employment with a private landlord who undertakes its "own in-house estate management activities" and who is not regulated by the RICS. It appears from this email correspondence that Mr King would be able to complete the RICS qualification through such employment, provided he had the support of a RICS-accredited counsellor while undergoing the Assessment of Professional Competence ("APC"). The Authority considers that it therefore appears possible for Mr King to obtain the RICS qualification without needing to be employed by a RICS-regulated firm which is engaged in insurance-related work.**
12. **In light of the above, the Authority considers that refusing to vary the Prohibition Order is not disproportionate.**

There are additional safeguards in place at the Prospective Employer and within the RICS rules

13. Granting the Application would enable Mr King to pursue employment within a framework that has sufficient safeguards in place to mitigate any risk he may pose to consumers and confidence in the financial system.
14. The variation sought is narrow in scope and would only allow Mr King to work in general insurance, which is not linked to the underlying facts of his original offending. The variation would still have the effect of preventing Mr King from giving advice or setting up an Authority- or RICS-regulated business to provide insurance advice without being employed by a surveying firm. The variation could also be specifically linked to a named

employer, thereby restricting Mr King so that he would only be able to carry out work in relation to insurance business while employed by that named employer.

15. The Guidance for DPB Rules ("the Guidance") confirms that the RICS cannot grant a DPB licence to firms that carry on any other investment business. As Mr King is not applying for employment at firms that undertake investment business, there is no risk of reoccurrence of his offending. The Authority can be satisfied that the risk of reoffending is mitigated by the RICS rules which reinforce and uphold the Authority's standards in addition to its own.
16. The Guidance also states that only a firm associate, partner or director can provide insurance advice; as a trainee surveyor, Mr King's junior role would be limited to assisting claims and filling in forms for insurance proposals. Although the RICS has confirmed to Mr King that graduates are permitted to provide insurance advice, it is for the member firm to decide on the extent of that advice. Were the Application to be granted, and Mr King to be employed by the Prospective Employer, he would be subject to supervision as a graduate surveyor, and only partners or directors would be permitted to provide insurance advice. Firms are subject to the terms of the DPB licence, and non-compliance would have severe consequences for the firm.
17. Mr King is able to satisfy the additional safeguard of the RICS's "fit and proper" requirements as the need to declare his conviction would fall outside the 5-year cut-off period by the time he intends to attain his professional qualification in September 2025, and his bankruptcy would similarly "drop off" his file, as he was discharged in October 2020.
18. Mr King would also be overseen by a RICS-accredited counsellor as another additional safeguard as part of his APC training; the counsellor would meet with Mr King every three to six months and would be responsible for certifying his final assessment, if they are satisfied that Mr King is fit and proper and can complete his training to the high standards required.
19. Mr King is serving the remainder of his custodial sentence in the community on licence, the terms of which require him to seek approval from his probation officer for any work undertaken between his release date and the end of his licence period in March 2026. He is also required to provide his employer with his probation officer's details and to have monthly meetings with his probation officer. During that period, Mr King will be under considerable scrutiny and risks being recalled to prison, if there is any suspicion of him committing any offence, which is a significant deterrent against any reoffending.
20. **It appears to the Authority that refusing Mr King's Application would not necessarily prevent Mr King from obtaining the qualifications required to progress in his chosen field.**
21. **The Authority has considered the seriousness of the misconduct that resulted in Mr King's Prohibition Order being made (EG 9.6.1(1)). The Authority considers that limiting the variation of the Prohibition Order in the terms suggested would not sufficiently eliminate the concerns arising from the fact that Mr King's convictions were for very serious dishonesty offences of theft and fraud, involving vulnerable victims, and that there would remain opportunities to re-offend when performing insurance-related work.**

22. **Mr King's Prohibition Order was made by the Authority, which remains responsible for upholding its own standards and has to make its own assessment as to whether the Prohibition Order should be varied. Having regard to EG 9.6.4, the Authority needs to be satisfied that granting the Application will not result in a reoccurrence of the risk to consumers or confidence in the financial system that resulted in Mr King's Prohibition Order being made, and that Mr King is fit to perform functions in relation to the specific regulated activity which he seeks to carry on. The Authority has to assess Mr King's fitness and propriety to perform these functions based on the criteria in FIT 2.1, FIT 2.2 and FIT 2.3.**
23. **The Authority has considered the email correspondence between Mr King, the Prospective Employer and the RICS. However, the Authority has not had sight of any details of safeguards or supervision arrangements in place at the Prospective Employer. Accordingly, the Authority has not been able to assess their adequacy.**
24. **The Authority has not seen any evidence to support Mr King's position that his bankruptcy will have "dropped off" his file by October 2025, and notes that the Insolvency Service imposed additional bankruptcy restrictions for 12 years following discharge, namely until October 2032. Even if Mr King did not need to declare his conviction for the purposes of the RICS "fit and proper" test once he has obtained his professional qualification, the Authority does not consider that this is relevant to the present question of whether it should grant the Application on the basis of his current fitness and propriety.**
25. **The Authority has considered EG 9.6.1(2) which states that a relevant factor in considering whether to grant or refuse an application to vary a prohibition order is the amount of time since the original order was made. The Authority is mindful that it has only been three and a half years since Mr King's conviction and just under two years since the Prohibition Order was imposed on him. The Authority is not satisfied on the basis of the evidence received that Mr King has sufficiently demonstrated his fitness and propriety in the context of the Authority's criteria in FIT 2.1 and considers that there would be a detrimental impact on confidence in the financial system if the Application were granted in these circumstances.**
26. **The Authority acknowledges the deterrent effect upon Mr King at the prospect of being recalled to prison. However, the Authority considers that his honesty and integrity, and the temptation to reoffend, need to be properly tested after he has fully re-entered society and without restriction.**
27. **In light of the above, the Authority is not satisfied that the safeguards referred to by Mr King are sufficient to eliminate the risk he poses to consumers and to confidence in the financial system.**

Mr King's circumstances can be distinguished from the cases cited by the Authority

28. The Authority has cited cases as precedents which are not comparable to Mr King's offending behaviour, the level of money involved, nor his co-operation with the Authority or law enforcement.

29. **The Authority has considered carefully the cases referred to. It does not agree with Mr King's assessment of the differences between those cases and his own circumstances, or with his views on why they should be discounted as comparator cases.**
30. **The Authority recognises the real progress and achievements that Mr King has made while in prison, and that he has had time to reflect on the impact of his offending on his family members. The Authority also acknowledges the steps he has taken to reconcile with his family, and to find gainful employment while in custody. It is to Mr King's credit that he is actively seeking to re-enter society and to build a new career which will help him to support his family in the future.**
31. **Having considered all the circumstances in the case and for the reasons set out above and in the Notice, the Authority is not satisfied that the Application should be granted.**