

Disciplinary Panel Hearing by way of written submissions

Case of

**Mr Laurent Roussel MRICS [1275997]
Paris, France**

On

Tuesday 24 September 2019

By telephone conference

Panel

Sally Ruthen (Lay Chair)
Ron Barclay-Smith (Lay Member)
Christopher Pittman (Surveyor Member)

Legal Assessor

Peter Steel

The formal charge is:

Between 1 January 2018 and 1 February 2019 you have failed to comply with RICS' requirements in respect of Continuing Professional Development (CPD) in that you have not completed and recorded, or caused to be recorded, at least 20 hours of CPD on the RICS CPD portal.

Contrary to Rule 6 of the Rules of Conduct for Members 2007 version 6.

Response

1. Mr Roussel had responded to the Notice of Hearing dated 15 August 2019 by email dated 4 September 2019. He had also returned a completed Listing Questionnaire dated 9 September 2019. In that document, Mr Roussel admitted the charge against him and accepted that he was liable to disciplinary action. The Panel therefore proceeded on the basis that the above charge was admitted.

Summary

2. From January 2013 RICS members were obliged to complete 20 hours CPD activity by 31 December of each calendar year.
3. Rule 6 provides: “Members shall comply with RICS requirements in respect of continuing professional development.”
4. CPD requirements for members are: –
 - Members must complete at least 20 hours CPD, of which at least 10 hours must be formal CPD.
 - All members must maintain a relevant and current understanding of RICS’ professional and ethical standards during a rolling three-year period.
 - All members must record the CPD activity online.
5. For the CPD year 2018 correspondence was sent by email to members reminding them about the necessity to comply with their CPD obligations. Mr Roussel was also sent a letter to his preferred address dated 21 March 2018 as a result of missing the 31 January 2017 deadline for recording his 2017 CPD. This made it explicit that he would be referred to a Disciplinary Panel if he failed to comply with the CPD requirements in 2018.

Service

6. As indicated above, Mr Roussel had clearly received the Notice of Hearing and had responded to it indicating that he was content for the case to be dealt with on the papers without an oral hearing.

Findings of Fact

7. The Panel was provided with a statement from Joe Poole, CPD Administrator at RICS, dated 15 May 2019 setting out Mr Roussel’s CPD record and exhibiting the relevant records. This showed that he had not recorded any CPD for 2018. There was no evidence in front of the Panel that Mr Roussel had been granted any concessions for that year.
8. Accordingly the Panel found the factual allegations proved, on the basis of the documentary evidence produced and Mr Roussel’s admission contained in the Listing Questionnaire dated 9 September 2019.

Liability to Disciplinary Action

9. The Panel was satisfied that the RICS requirement to complete and record CPD is reasonable and that Mr Roussel's failure to comply with those requirements is sufficiently serious to give rise to a liability for disciplinary action. In reaching this conclusion the Panel took into account the fact that the CPD policy has been approved by the Regulatory Board and is an expressly stated RICS rule. The Panel noted that all members agree to adhere to RICS' Rules, Regulations and Bye-Laws and accept that they may be subject to disciplinary action if they fail to do so. The Panel was also satisfied that breaches of the RICS rule on CPD recording must be regarded as serious, as they prevent RICS from monitoring compliance thus ensuring public protection and maintaining confidence in the profession.
10. Accordingly, the Panel was satisfied that Mr Roussel was liable to disciplinary action and noted that he accepted as such in the Listing Questionnaire that he had returned to RICS.

Sanction

Panel's Approach

11. The Panel took into account the submissions of RICS as set out in the Case Summary in the bundle and the explanation contained within the Listing Questionnaire dated 9 September 2019. It had regard to the RICS Sanctions Policy.
12. The Panel bore in mind that the purpose of sanctions is not to be punitive, although it may have that effect. The purpose of sanctions is to declare and uphold the standards of the profession, to safeguard the reputation of the profession and of RICS as its regulator and to protect the public. Sanctions must be proportionate to the breach and all the circumstances and a decision should be reached having taken into account any mitigating and/or aggravating factors.
13. The Panel bundle contained a further statement from Joe Poole also dated 15 May 2019, which indicated that Mr Roussel had received a Caution for failure to comply with the CPD requirements in 2013 (he had apparently completed sufficient CPD for the year but had not recorded it in time) and a Caution and Fine in 2017 for a further breach. This was therefore Mr Roussel's third such breach.

Decision

14. As noted above, Mr Roussel had provided a response explaining his failure to comply with the CPD requirements. He had in fact undertaken sufficient CPD during all the years in which he had been a member of RICS. However he stated: "*My problem was only about an extreme lack of time during these two past years, as anyone who is launching his own business.*" He accepted that he was fully responsible for this "*sad situation*".

15. The Panel considered it some mitigation that Mr Roussel had complied with the requirement to undertake CPD in 2018. It also noted that Mr Roussel expressed his intention to comply with the CPD requirements in the future, his payment of the fine in respect of the 2017 breach and his expression of regret noted above.
16. Lastly, in addition to these points of mitigation, the Panel gave Mr Roussel some credit for engaging with these proceedings. The Panel was also not informed of any other disciplinary history other than the CPD breaches.
17. The Panel considered that the following aggravating factors were present in this case:
 - The charge found proved represented a repeated breach of the CPD requirements, which Mr Roussel clearly understood (and in addition, he clearly understood the seriousness of the charge); and
 - He had been sent a number of prompts by email and letter that he risked disciplinary action if he did not comply which he had apparently ignored.
18. RICS is a professional membership organisation and sets standards for its members as a condition of membership. Even taking in to account the occasional difficulties members may experience in recording CPD, the system for doing so is not difficult however busy a member's professional or personal life may be. Compliance is not optional.
19. The Panel first considered whether it was appropriate to impose any sanction at all. The Panel concluded that the repeated failure to record CPD was serious and, in the absence of exceptional circumstances, imposing no sanction would be neither proportionate nor appropriate. As noted above, Mr Roussel was aware of his responsibility to ensure that he complied with his CPD obligations yet repeatedly failed to record his CPD. In addition the Panel noted that Mr Roussel had been sent numerous reminders by RICS, despite the fact that RICS was not obliged to do so.
20. The Panel went on to consider whether to impose a caution. The Panel concluded that a caution would not adequately reflect the seriousness of the case, recognising the cumulative pattern of non-compliance and the fact that Mr Roussel had already received a caution and then a caution and a fine for the previous breaches. The Panel also considered the imposition of a reprimand, but concluded that a reprimand on its own would not reflect the seriousness of Mr Roussel's repeated failure to comply with the requirement to complete and record CPD as required.
21. In considering whether to require Mr Roussel to give an undertaking the Panel took into account the mandatory nature of the CPD requirements. The Panel noted that the CPD requirements are designed to ensure that the skills and knowledge of RICS members are kept up to date and ultimately to ensure public protection. The Panel concluded that it would not be appropriate or proportionate, in the absence of exceptional circumstances, to impose an undertaking given that Mr Roussel should have been completing and recording his CPD online in any event. Even if an undertaking were to be combined with

either a caution, reprimand or fine, the Panel concluded that imposing such a sanction would be insufficient to maintain public trust and confidence in the regulatory process.

22. Mr Roussel had demonstrated some remorse, as well as some degree of insight by recording his 2018 CPD and by his engagement in these proceedings, which assured the Panel that he understood his professional responsibilities. The Panel concluded that it would be proportionate and would sufficiently address the misconduct in this case to impose a reprimand, fine and a condition. It therefore ordered:

1. Mr Roussel be reprimanded and pay a fine of £750;
2. As a further condition of his continuing membership, Mr Roussel is directed to comply with the CPD requirements for 2019 by completing his CPD hours for the year 2019 by 31 December 2019 and recording his CPD hours by 31 January 2020; and
3. Failure to comply with condition 2 above will result in automatic expulsion from membership, without further reference to a Disciplinary Panel.

23. The Panel took into account paragraph 21.1. of the Sanctions Policy, which states that expulsion is likely where there is a third breach of Rule 6 of the Rules of Conduct for members within 10 years of a receipt of a caution for breach of the same rule. However to impose a more severe sanction than a reprimand, a fine and a condition in this case, would in the Panel's view, be excessive and disproportionate in the light of the mitigation set out at paragraphs 15 to 17.

Publication

24. The Panel has considered the policy on publication of decisions, The Sanctions Policy Supplement 3 - Publication of Regulatory Disciplinary Matters. The Panel was unable to identify any reason to depart from the presumption that decisions will be published on the RICS website and in the RICS magazine Modus.

Costs

25. RICS applied for costs in the sum of £400.

26. The Panel considered carefully the issue of costs. The costs figure represents a contribution towards the costs incurred by RICS in preparation for the hearing and the hearing itself. The Panel had no reason to doubt that the costs application was fair and reasonable.

27. The Panel concluded that it was appropriate for Mr Roussel to make a contribution towards the costs of bringing this case, otherwise the full cost of these proceedings would fall on the profession as a whole.

28. The Panel orders that Mr Roussel pays to RICS costs in the sum of £400.

Appeal Period

29. Mr Roussel has 28 days, from the service of the notification of the decision, to appeal this decision in accordance with Rule 59 of the Rules.

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