

Disciplinary Panel Hearing

Case of

**Ms Sarah Mills [6808912]
Norfolk**

On

Tuesday 24 November 2020

At

Remotely via Ms Teams

Panel

Ian Hastie (Surveyor Chair)
Rosalyn Hayles (Lay Member)
Catherine Brown (Lay Member)

Legal Assessor

Christopher Hamlet

RICS Presenting Officer

Not present – paper hearing

Respondents' Representative(s)

Not present or represented – paper hearing

Witnesses

None

Hearing Officer

Miss Maria Choudhury

Background/Summary

1. Ms Mills registered with the RICS as an Associate Candidate on 31 July 2018.
2. On 6 February 2018, she contacted by telephone a sports bar in Great Yarmouth purporting to be a member of the Norfolk Constabulary. She provided a police reference number and informed the bar manager that a bomb had been placed in a nearby shopping area before ending the call. She called a second time shortly thereafter to instruct the manager of the bar to get onto the floor and instruct members of the public to do the same.
3. The manager of the bar telephoned 101 in order to clarify whether the calls were genuine. This resulted in a significant Police, Fire and Ambulance response involving the evacuation of the bar and neighbouring premises to facilitate a search of the area for suspicious packages. Ultimately, it was established that the calls had been a hoax and were traced back to Miss Mills.
4. On 22 May 2019, she was convicted at Norfolk Magistrates Court for the offence of communicating a bomb hoax, contrary to Section 51(2) and (4) of the Criminal Law Act 1977. She was sentenced, upon a guilty plea, to a total of 10 months' imprisonment, suspended for 18 months, to pay compensation of £300 to the bar for lost trade, further compensation of £1,322.65 to the Police, to pay a victim surcharge of £115 and CPS costs of £85.
5. On 12 June 2019, Ms Mills' employer, East Suffolk Council, informed RICS of the conviction.

Charges

6. The consequential charge against Ms Mills by RICS is as follows:

1. On 22 May 2019, at Norfolk Magistrates Court, she was charged with the following:
 - a. Bomb hoax – communicate false information

Contrary to Section 51(2) and (4) of the Criminal Law Act 1977.

The Member is therefore liable to disciplinary action in accordance with Bye Law 5.2.2(d)

Preliminary applications – proceeding in absence

7. Notice of the Hearing, to be heard by way of written representations, was provided by the RICS to Ms Mills by email on 7 October 2020 in accordance with Rule 43A of the Disciplinary, Registration and Appeal Panel Rules 2009 (the “Rules”).
8. Ms Mills was notified that she may be liable for disciplinary action in accordance with Bye Law 5.2.2(d).
9. The Panel had regard to a Listing Questionnaire completed by Ms Mills and dated 26 August 2020, in which she confirmed that she:
 - admitted the charge
 - accepted she is liable to disciplinary action
 - did not intend to attend or be represented
 - was content for the hearing to proceed on a paper basis
10. The Panel noted that Ms Mills had already provided a written account to RICS on 6 September 2020 and an updated account with the Listing Questionnaire.
11. The Panel received advice from the Legal Advisor as to the Rules regarding service in respect of paper hearings. It concluded that Notice had been properly served in accordance with Rule 43a.

12. The Panel was satisfied, in view of the fact that Ms Mills had given a clear indication that she was aware of the hearing and was content that it proceeded on a paper basis, that it was appropriate for the matter to proceed in her absence. The Panel were reassured that Ms Mills had also taken the opportunity to provide two forms of written account to the Panel of which account could be taken in her absence.

Response to the Charges

13. Ms Mills provided a Listing Questionnaire dated 26 August 2019 in which she admitted the charge.

14. In view of this admission, and having had sight of the memorandum of conviction from Norfolk Magistrates Court dated 22 August 2019 which represented conclusive evidence of the conviction, the Panel found the charge proved.

Liability to disciplinary action

15. Again, the Panel had regard to Ms Mills' Listing Questionnaire in which she accepted she was liable to disciplinary action.

16. The Panel was advised that though they were entitled to take that concession into account, the decision on liability was ultimately one for its independent judgement. It was advised that the decision is a distinct decision to the determination on the facts. The stem of Bye-Law 5.2.2, under which this matter falls, sets out that a member "may" be liable by reason of those matters, which reflects the fact not every matter falling within the ambit of the bye law WILL result in action.

17. The Panel was advised that it did not follow, therefore, that liability arises automatically upon a finding of fact. The decision required an application of judgment

as to whether the matters proved, taken in the context of the circumstances at the time, and Ms Mills actions since, necessitated a disciplinary response.

18. The Panel considered the nature and circumstances of Ms Mills' conviction. It had regard to the material before it produced by RICS as well as the written submissions provided by both parties. It noted in particular Ms Mills' written response to RICS on 6 September 2020 in which she:

- apologised for the delay in responding
- expressed "sincere regret and utter remorse" for the actions which led to her conviction
- stated that they had been the product of a "prank" between friends, including the recipient and had been "misinterpreted"
- stated that she had undertaken counselling and contacted Lionheart to provide her with emotional support since the events
- stated that there had been "absolutely no link" between the events and her job
- stated that she was "usually a person of good character".

19. The Panel also had regard to positive testimonials produced on Ms Mills' behalf.

20. The Panel considered that Ms Mills' conduct, in being responsible for a credible and repeated bomb threat, was irresponsible in the extreme. It resulted in a major incident response involving the Police, Fire and Ambulance services and the evacuation of part of the centre of Great Yarmouth. It would have caused a number of members of the public to be placed in fear of their lives. Moreover, the Panel considered that far from being "misinterpreted", these outcomes would all have been obvious to Ms Mills as the likely impact of her conduct at the time she made the calls in question. Whether or not Ms Mills' profession became public knowledge, the Panel was in no doubt that a reasonable member of the public, furnished with knowledge of these facts, would be appalled by her conduct.

21. The Panel were duly satisfied that disciplinary action was necessary to restore public trust and to uphold standards of conduct across the profession.

Considerations on sanction

22. The Panel considered the written submissions from both parties as to sanction.

23. It noted the submission by the RICS that, according to Rule 20 of the Sanctions Policy, in the absence of extenuating circumstances, a conviction for a serious criminal offence is likely to result in expulsion from membership.

24. It also noted the updated statement from Ms Mills in which she described the enjoyment she continued to derive from her job as a trainee surveyor at East Suffolk Council. She stated that she had reflected on the events and felt regret, remorse and gratitude at being given a “second chance”. She stated she recognises that she was “careless, gullible and...created upset for the people involved.” She expressed remorse. She expressed a desire to “move on from this and start to progress with my life” and asked the Panel to “...allow me to continue on my path to becoming qualified.”

25. The Panel bore in mind that the purpose of sanctions is not to be punitive, though that may be their effect. The purpose of sanctions is to declare and uphold the standards of the profession, to safeguard the reputation of the profession and of the RICS as its regulator and to protect the public. Sanctions must be proportionate to the matters found proved.

26. The Panel paid careful heed to the advice of the Legal Assessor and to the Sanctions Policy of the RICS. It recognised that it had a duty to take a proportionate and fair approach to the issue of sanctions.

27. The Panel considered the following key aggravating features to be present in this case:

- Two hoax calls were made in quick succession of a highly credible nature
- She held herself out as a member of the Police
- It resulted in a major incident response involving all three emergency services
- It resulted in adverse publicity, albeit not directly linked to her profession

28. The Panel considered the following key mitigating features to be present in this case:

- She had no previous disciplinary history
- The conduct was isolated
- She admitted to the offence at court and during these proceedings
- She has provided sincere expressions of regret and apology

29. The Panel considered the matters too serious for no sanction to be imposed. It considered it necessary to formally mark the wrongdoing, over and above the conviction, to restore public confidence and to uphold standards of conduct across the profession.

30. The Panel considered that a Caution would be inadequate in reflecting the gravity of the wrongdoing and in order to maintain public confidence in and standards across the profession. Further, the Panel did not consider this conduct to represent a minor breach of the standards of conduct expected of Members.

31. The Panel considered this to be a finely balanced case. Ms Mills' conduct was reckless, foolish and irresponsible. Ordinarily, an act resulting in a conviction of this nature would attract a sanction of expulsion. However, without minimising the seriousness of her misconduct, the Panel concluded that Ms Mills' actions were the product of a badly misplaced prank rather than a malicious and deliberate effort to cause fear or alarm, predictable though that outcome was. Though her insight into the impact of the events on the public and profession is incomplete, the Panel was

satisfied from her written submissions that she had acknowledged her fault, learned a salutary lesson and there was no prospect of a repetition.

32. Having further regard to Ms Mills' hitherto good character and the positive testimonial evidence produced confirming that she is otherwise a sound professional, the Panel concluded that the public interest could be best met in this case by way of a Reprimand, a Fine of £400 and a Condition.

33. The Panel carefully considered the Section 20 guidance of expulsion for this type of offence. The Panel assessed the balance of the wider public interest against Ms Mills' own interests, including her professional standing and the impact expulsion will have on her. The Panel concluded that a sanction of expulsion was, in the context of this offence and the mitigating features, a disproportionate response.

34. Accordingly, the Panel ordered that Ms Mills be the subject of a Reprimand a Fine of £400 and a Condition in the following terms:

You must arrange, attend and complete, at your own cost, the RICS course "Conduct Rules, Ethics and Professional Practice" within 6 months of the date of this determination. Evidence of attendance must be provided to the Head of Regulation.

Failure to do so, without reasonable excuse, may lead to further disciplinary action.

Publication and Costs

35. The Panel considered the guidance as to publication of its decisions. It accepted the Legal Assessor's advice. The advice was, and the guidance provides, that it is usual for the decisions of the Panel to be posted on the RICS website and published in Modus.

36. The Panel had regard to Ms Mills' request that the determination not be published since it "is likely to lead to me being dismissed". However, the Panel considered this insufficient reason for departing from the normal practice in this case. It noted that her employer was already aware of the conviction, having reported the matter itself to RICS. It considered there was a strong public interest in publicising this decision, particularly since the outcome had been a finely balanced one which may be of clear interest to the public and profession. Part of the role of the Panel is to uphold the reputation of the profession, and publication of its decisions is an essential part of that role.

37. The Panel orders that this decision be published on the RICS website and in Modus.

38. As regards costs, the RICS sought its standard rate for a paper hearing of £600. The Panel saw no reason to depart from the usual principle that the costs of bringing the proceedings should be borne by the Respondent.

39. Accordingly, the Panel orders that Ms Mills pay to RICS costs of £600.

Appeal Period

40. Ms Mills may appeal against this decision within 28 days of notification of this decision, in accordance with Rules 59-70.

41. In accordance with Rule 60 of the Disciplinary, Registration and Appeal Panel Rules 2009, the Honorary Secretary of RICS has 28 days from service of the notification of the decision to require a review of this decision.