

## RICS, Disciplinary, Registration and Appeal Panel Rules 2019

### Part VI, Regulatory Tribunal Single Member Decision.

**Regulated Member:** Steven Strathie  
**Case Number:** REG0000157171  
**Single Member Decision of:** John Anderson  
**Date of decision:** 02 November 2020

#### DECISION

Having read the papers and considered the evidence, in accordance with Part VI of the Disciplinary Registration and Appeal Panel Rules, I make the following order that the:

Regulated Member is expelled from membership of RICS.

#### REASONS FOR DECISION

##### 1. Background

This case concerns the obligation for RICS members to complete and record annually 20 hours of Continuing Professional Development (CPD) online.

Rule 6 of the Rules of Conduct for Members 2007 states:

Members shall comply with RICS' requirements in respect of continuing professional development.

The requirements of the Rule are as follows:

- (i) All RICS members must undertake a minimum of 20 hours CPD each calendar year (January to December).
- (ii) Of the 20 hours at least 10 hours must be formal CPD. The remainder can be informal CPD
- (iii) All RICS members must maintain a relevant and current understanding of RICS professional and ethical standards during a rolling three-year period. Any learning undertaken in order to meet this requirement may count as formal CPD

- (iv) All members must record their CPD activity online

I have been provided with and fully considered the case bundle, the key parts of which comprise:

- a statement from RICS' Head of Regulation submitting that it is considered that there is a reasonable prospect that the facts in this case will be established on the balance of probabilities leaving the Regulated Member liable to Disciplinary Action;
- a copy of the Regulated Member's CPD records from the RICS online CPD system;
- witness statements from RICS employees Claire Hoverd and Jamie Edwards dated 31/7/20;
- an investigation report which sets out:
  - the facts underpinning the allegation;
  - why in the view of RICS that the alleged facts render the Regulated Member liable to disciplinary action;
  - RICS' position on sanction;
  - details of communication between RICS and the Regulated Member;
- schedule of costs amounting to the sum of £350.
- an indication of no response being received from the Regulated Member concerning these proceedings in relation to CPD obligations for 2019.

## 2. Alleged Rule Breach

The charge against the Regulated Member is: -

*“Between 1 January 2019 and 1 February 2020, you have failed to comply with RICS' requirements in respect of Continuing Professional Development (CPD) on that you have not completed and recorded, or caused to be recorded, at least 20 hours of CPD on the RICS CPD portal.”*

### 3. Facts

In support of the charge and Liability to Disciplinary action, RICS submits a case bundle containing an Investigation Report which sets out the key points upon which the Institution seeks to rely.

- the obligation upon all RICS members to comply with the above CPD processes and requirements;
- that the Regulated Member has recorded 0 hours CPD online for 2019;
- Jamie Edward's statement which indicates that in addition to 2019, the Regulated Member did not record CPD in terms of Rule 6 for years 2018 and 2013;
- No concessions apply to the Regulated Member, who therefore is required to complete and record CPD;
- The Regulated Member has previously complied with Rule 6 and recorded CPD in relation to 2014, 2015, 2016 and 2017 and accordingly demonstrated awareness of CPD obligations;
- That in the period 29/10/20 up to and including 25/2/20, nine reminders to complete and record CPD by 31/12/19 and 31/1/20 respectively were emailed to the address provided by Mr Strathie. A final reminder was emailed on 28/7/20.
- That the obligation to complete and record CPD is contained in the Rules and is therefore not dependent upon the Regulated Member receiving a CPD reminder from RICS;

I have also read the letter dated 7/9/20 informing Mr Strathie that the case has been referred by the Head of Regulation to a Single Member of the Conduct and Appeal Committee for consideration. This letter, which accompanied the case bundle, requesting an emailed return of the enclosed listing questionnaire and any written representations upon which Mr Strathie wished to rely within 14 days of that letter.

I received notification from RICS on 22/10/20 that the above email (7/9/20) bounced back from the registered address [stst@isurvey-group.com](mailto:stst@isurvey-group.com) and confirmed that Mr Strathie no

longer worked at the company. In fairness to Mr Strathie, I requested that a further step be taken by RICS to reach him. In response, I received another email from RICS dated 2/11/20 in which Ms Edwards states that she had tried to speak to Mr Strathie at 08:40 on 2/11/20 using the number that was showing on his membership record. Ms Edwards further states that this number was no longer in use and there are no other phone numbers listed for Mr Strathie.

I also note that similar difficulty in reaching Mr Strathie by phone was experienced by RICS' Heather Goode on 19/2/19 when chasing him up in regard to his 2018 CPD obligations.

I am therefore satisfied that no documentation has been received to date from Mr Strathie.

#### **4. Decision**

As is stated in paragraph three above, Mr Strathie, along with the rest of RICS membership, was on notice of the need to complete and record CPD from the numerous communications from RICS over a considerable period of time.

Based upon the evidence in the bundle, I find it more likely than not that Mr Strathie is in breach of the requirements of Rule 6 and that RICS went over and above what was required by sending numerous reminders to the Regulated Member's preferred email address. I am also satisfied that all said reminders were correctly addressed to the preferred address then held on file for Mr Strathie.

Accordingly, I find the charge proved on the balance of probabilities.

Turning to the matter of Liability to Disciplinary Action, I have taken into account that the CPD policy has been approved by the Regulatory Board and is an expressly stated RICS rule. I note that all members agree to adhere to the RICS Rules, Regulations and Bye-Laws and accept that they may be subject to disciplinary action if they fail to do so. CPD is intended to ensure consistent standards within the profession so that members maintain up to date professional knowledge and are able to demonstrate this through proper and accurate recording of their CPD. The requirement for members to complete and record CPD is important in the interests of ensuring public protection and confidence in the profession and RICS as a regulator. Completing and

recording CPD is also RICS' only line of sight to ensure a member's compliance - something which is not optional.

Notwithstanding Mr Strathie's own responsibility to comply, I note the extra steps taken by RICS to inform and remind members of their CPD obligations. Despite this, Mr Strathie still fell short of meeting these obligations for the calendar year 2019. Therefore, I am satisfied that in all the circumstances this single failure is sufficiently serious to give rise to liability to disciplinary action.

Accordingly, in relation to the above, I find the Regulated Member Liable to Disciplinary action.

## 5. Regulatory Sanction

At this stage I took into account all the written submissions, the RICS Sanctions Policy and the Regulated Member's disciplinary history which is as follows in regard to CPD related sanctions:

- 2013 - Caution
- 2018 - Caution and fine.

I bore in mind that the purpose of sanctions is not to be punitive, although they 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 the RICS as its regulator and to protect the public. Sanctions must be proportionate to the breach and all of the circumstances, and I approached my decision having taken into account any mitigating and/or aggravating factors.

## Decision on Sanction

The RICS is a professional membership organisation and sets standards for its members as a condition of membership. It is not difficult to record CPD online and compliance is not optional.

The charge found proved represented a third breach of the CPD requirements with 10 years, Mr Strathie having failed to complete and record, or cause to be recorded, the required number of hours of CPD in accordance with Rule 6 despite having been sent a number of reminders by the RICS of the importance of doing so and of the consequences that could follow for failing to comply. The central tenet of Regulation is protecting the public through guarding against repetition of acts or omissions which fall short of expected standards. Previous regulatory responses (also in relation to CPD compliance) appear not to have the desired effect and therefore I consider that to be a serious aggravating feature of this case. Notwithstanding the steps taken up to and including today's date, there has been no explanatory information presented by or communication received from Mr Strathie, and therefore I am unable to find much by way of mitigation.

Having considered all of the circumstances of this case, I first considered whether to impose any sanction at all. I have concluded that the failure by Mr Strathie to complete and record CPD in compliance with Rule 6 on three separate occasions was serious and, in the absence of exceptional circumstances, imposing no sanction would be neither proportionate nor appropriate.

I then considered whether to impose a caution and concluded that a caution was not appropriate because it would not adequately reflect the seriousness of the conduct, recognising the repeated non-compliance. A caution had already been imposed for a previous breach and this had not ensured that Mr Strathie had consistently complied with professional obligations as set out in Rule 6.

I also considered the imposition of a reprimand, but concluded that similarly this did not reflect the seriousness of the Mr Strathie's repeated failure to comply with the requirement to complete and record CPD.

In considering whether to require Mr Strathie to give an undertaking, and I took into account the mandatory nature of the CPD requirements which Members have already undertaken to

comply with through their membership. CPD requirements are designed to ensure that the skills and knowledge of RICS members are kept up to date which is ultimately to ensure

public protection. I concluded that it would not be appropriate or proportionate to impose an undertaking given that Mr Strathie should have been completing and recording his CPD online in any event and concluded that imposing such a sanction would be insufficient to maintain public trust and confidence in the regulatory process.

I then considered whether to impose a fine. It decided that a fine would not be an appropriate sanction. Mr Strathie had previously received a fine for a breach of the CPD requirements, but this had not ensured compliance.

For similar reasons, and because of his lack of engagement in relation to these regulatory proceedings, I did not consider the imposition of a condition on Mr Strathie's continuing membership to be an adequate, workable and proportionate response to the misconduct demonstrated by this case.

I took into account paragraph 21.1. of the Sanctions Policy, which states that in the absence of extenuating circumstances 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. Having carefully considered all aspects of the case including Mr Strathie's disciplinary history, and all possible sanctions available to me, I concluded that the appropriate and proportionate sanction in this case was expulsion. I therefore order that Mr Strathie be expelled from membership of RICS.

## **6. Costs**

The Regulated Member has not provided a statement of means. Thus, in accordance with Rule 119 of the Disciplinary Registration and Appeal Panel Rules I make the following order costs against the Regulated Member in the amount of £350.

## **7. Taking Effect of the Order**

The order will take effect in accordance with Rule 114 of the Disciplinary Registration and Appeal Panel Rules, which states the following:

*114. Following the expiry of 14 days from the service of the Single Member's decision upon the Regulated Member, The Regulatory Sanction will be deemed to be*

*accepted by the Regulated Member and the Regulatory Sanction imposed will take effect forthwith, unless notification has been received under Rule 116.*

Mr Strathie must notify the Head of Regulatory Governance and Tribunals within 14 days of receipt of this decision. If the Regulated Member does not accept this decision, failing which the order will be deemed accepted by the Regulated Member and will take effect.

## **8. Publication**

This decision will be published in accordance with Rule 120 of the Disciplinary Registration and Appeal Panel Rules, which states the following:

*120. in accordance with the Regulatory Sanctions Publication Policy.*

- a pending the expiry of 14 days following service of the record of decision upon the parties, the Regulated Member's name, charge/s and Single Member's decision as to whether the charge/s were found proved or not proved, and Regulatory Sanction if applicable will be published in accordance with the Regulatory Sanctions Policy and*
- b the Single Member's Record of Decision will be published following the expiry of 14 days.*