

Registration Panel Hearing

Case of

**Mr David Lawal (in attendance, unrepresented) [1159486],
Uxbridge**

On

Friday 23 September 2022

By video conference (Microsoft Teams)

RICS, 55 Colmore Row, Birmingham, B3 2AS

Panel

Paul Watkinson FRICS (Surveyor Chair)
Gillian Seager (Lay Member)
Ron Barclay-Smith (Lay Member)

Legal Assessor

Ben Kemp

RICS Representative

Donna Carr

Member's Representative

None

Regulatory Tribunal Executive

Maria Choudhury-Rahman

Introduction

1. This is the oral hearing of an application by Mr Lawal for re-admission following a disciplinary expulsion under Regulation 2.3.3 of the RICS' Regulations and the Rules Setting Out the Procedure for Re-admission to Membership Following Disciplinary Expulsion (Version 2, with effect from 2 March 2020) (the Readmission Rules).

Burden of proof

2. Under Rule 135 of the RICS' Regulatory Tribunal Rules (Version 1 with effect from 2 March 2020) ("the Rules"), the burden is on the Applicant, i.e. Mr Lawal, to satisfy the Registration Panel that the order being sought should be made.

Background

3. Mr Lawal was first registered as a Member of RICS on 04 July 2005. He remained a member until 27 June 2017. In June 2016 Mr Lawal disclosed to RICS that he had been convicted of a criminal offence. Having considered the matter of his conviction, an RICS Disciplinary Panel on 27 June 2017 made a finding of Misconduct and imposed the sanction of expulsion from membership on Mr Lawal. Mr Lawal initially lodged but then withdrew an appeal and he has remained expelled since that time.

4. On 01 March 2019 Mr Lawal applied to be readmitted to RICS membership. On 18 July 2019, having considered his application, the RICS Registration Panel decided that Mr Lawal should not at that stage be readmitted. It considered that he did not at that time meet the required 'fit and proper person' threshold and that admitting him at that point in time would risk undermining confidence in the profession.

5. Mr Lawal re-applied for readmission to membership on 29 November 2021 and it is this further application that the Panel has now considered.

Preliminary Issues

6. The Panel was satisfied that the relevant requirements had been met in relation to notice and service. In particular, Mr Lawal confirmed that he had waived the required notice period and had no objection in this respect. The Panel was satisfied in the circumstances that it was appropriate to proceed. It was agreed that Ms Carr would go first, setting out the RICS position, followed by Mr Lawal, who was self-represented.

RICS submissions regarding the application

7. The Panel had before it Mr Lawal's written application for readmission, his additional written submissions, the Case Summary and evidence bundle produced by RICS, including relevant correspondence and a reference letter from a Director of Mr Lawal's current employer, Capital

Property and Construction Consultants Limited. RICS had additionally produced a written statement from its Hearings Officer, Mrs Choudhury-Rahman, confirming details of notice and service provided to Mr Lawal in relation to this case. Mrs Choudhury-Rahman had in advance of the hearing notified to the Panel and parties a small factual correction relating to the specific method by which notice had been served, but the Panel was in any event satisfied, as noted, that Mr Lawal, who was in attendance, had accepted service and waived the required notice period in this case.

8. Referring the Panel to the relevant provisions of the RICS Bye-laws and Regulations, as well as the Readmission Rules, Ms Carr confirmed to the Panel that Mr Lawal had satisfied the formal Eligibility requirements for readmission and additionally that there was no other history of convictions, adverse findings, bankruptcy or insolvency. Mr Lawal had satisfied all debts owed by him to RICS. There had been no prior disciplinary record, prior to the disciplinary decision giving rise to Mr Lawal's expulsion in 2017. Ms Carr submitted that that decision had been based on a criminal conviction which was now properly considered 'spent' in terms of the Rehabilitation of Offenders Act 1974. As such, RICS neither produced nor sought to attach any weight or reliance upon either the criminal conviction or the disciplinary decision which flowed from it. Mr Lawal had at the time of his conviction reported this promptly to RICS. It was a matter for the Panel to consider whether it was now appropriate to re-admit Mr Lawal, and in particular, whether he was now a fit and proper person to be a member, and whether it was in the best interests of RICS that he should be so admitted.

Submissions by Mr Lawal

9. Without going into the detail of his conviction, Mr Lawal spoke at some length about the impact this had had on him, his personal life and his career. He spoke to his lengthy career (over thirty-eight years) working in the built environment and construction sector, initially as a structural engineer and most recently as a project manager. He referred to his conviction as a 'serious error' and misjudgement in his personal life. He had learned much from it and it had had a considerable impact on both his personal and professional lives. He had resigned his partnership of the firm he worked for at the time and sought new employment, with his current employer, who had been prepared to back him in giving him another chance. He had disclosed the full background to his mistake and conviction at the time of seeking this new employment opportunity. His new employer continued to be supportive, as demonstrated by the reference provided to the Panel.

10. It was a matter of pride, Mr Lawal stated, for him in seeking to restore his membership of RICS. Approaching the end of his career and now employed again there was no particular financial motivation for him in doing so. He had kept up his CPD, learned from his mistake and wished to have the privilege once more of being part of RICS, and of being able to contribute once more as a Member. He spoke to informal mentoring roles which he had undertaken in the meantime, supporting more junior colleagues, as well as his own son. In response to a Panel question, Mr Lawal stated that he had gained a more in depth understanding of RICS rules and regulations, and of their importance. He accepted fully his conviction and RICS expulsion and asked the Panel to give him a further opportunity, now that his conviction was legally spent.

Registration Panel's Decision

11. The Panel considered, in accordance with Rule 5 of the Readmission Rules:

- a. whether Mr Lawal was a fit and proper person for the purposes of readmission in accordance with RICS Regulation 2.2.2; and
- b. whether his readmission was in the best interests of RICS.

12. The Panel accepted the advice from the Legal Assessor about the approach it should take when considering whether or not Mr Lawal was a fit and proper person to be eligible for re-admission. It proceeded in particular upon the basis that it should not now attach weight to the criminal conviction, now formally spent under the applicable legal framework. It noted that RICS had not raised any concern which might be considered a barrier to readmission at this stage. It nonetheless recognised that it was for Mr Lawal to satisfy the Panel that he should be re-admitted, applying the criteria set out.

13. The Panel considered that Mr Lawal had demonstrated not only remorse but also considerable reflection and insight. He had clearly been significantly impacted, not only materially, but also personally, as a result of an error of judgement which had been serious and had severe consequences for him and his career. The Panel found Mr Lawal to be entirely credible in speaking of his journey and recovery, personally and professionally from this error and traumatic episode in his life. He was doing important work for his new employer, backed by his employer and clients and had demonstrated his continuing passion and commitment for his profession.

14. The Panel was satisfied from the evidence before it that Mr Lawal is now a fit and proper person to be a full member of RICS once more. It had regard in this respect to Mr Lawal's own very credible and insightful submissions, the evidence of his current work and reference from his employer. It considered further that it is in the best interests of RICS in all of the circumstances for Mr Lawal's application now to be granted. It is appropriate now that Mr Lawal should be given a further chance, and that RICS as a professional body and regulator permits such opportunity where appropriate. It was satisfied that there would no longer be reputational harm to the profession or to RICS in permitting Mr Lawal's readmission.

15. The Panel considered that it was now appropriate that Mr Lawal should be accorded the opportunity to resume his membership of RICS, on the same basis as previously. It considered but saw no basis upon which to impose conditions upon his renewed membership as a Member of RICS. Mr Lawal will of course as such require to observe all of his RICS professional obligations, including in relation to CPD, and the Panel has no doubt in his commitment to do so.

Publication and Costs

Publication

16. The Panel considered the guidance as to publication of its decisions and 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 published on the RICS' website and in RICS Modus. The Panel sees no reason for departing from the normal practice in this case. 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.

17. The Panel therefore orders that this decision be published on the RICS' website and in RICS Modus, in accordance with Supplement 3 to the Sanctions Policy 2008 version 8.

Costs

18. RICS made an application for costs in the total sum of £2,170, as adjusted to reflect the fact that the application had been successful, and submitted a schedule setting out those costs to the Panel.

19. The Panel considered all of the circumstances, in particular Mr Lawal's concession to the effect that he did not object to the application for costs. The Panel concluded that it was appropriate for Mr Lawal to make a contribution towards the costs of this appeal, otherwise the full cost of these proceedings would fall on the profession as a whole. The Panel was therefore satisfied that it was just and reasonable to order that Mr Lawal pay the RICS' costs of this hearing in the sum of **£2,170.00**. Absent any agreement to the contrary, those costs must be paid to the RICS within 35 days.