

DECISION SHEET

RICS Regulatory Tribunal Rules 2020

Part VI, Regulatory Tribunal Single Member Decision

Regulated Member:	Mr Alexander Dingwall
Single Member Decision of:	Jane Bishop
Case Number:	CON001581
Date of Decision:	25 January 2023

CHARGE:

The formal charge against the Regulated Member (Mr Dingwall) is:

“Between 1 January 2021 and 1 February 2022, 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. An extension period was granted by RICS until 26 May 2022 by which date you had still failed to complete and record or cause to be recorded at least 20 hours of CPD on the RICS CPD portal for the period between 1 January 2021 to 1 February 2022”

ALLEGED RULE/S BREACH

Mr Dingwall has contravened Rule 6 of the Rules of Conduct for Members 2007 version 6 that requires Members to undertake a minimum of 20 hours CPD each calendar year.

Mr Dingwall is therefore liable to disciplinary action under Bye-law 5.2.2(c).

MATERIALS CONSIDERED

I have had regard to the RICS bundle of documents consisting of 69 pages and published on 16 January 2023.

BACKGROUND

1. The Rules of Conduct for Members 2007 “set out the standards of professional conduct and practice expected of Members of RICS.” Rule 6 states “Members shall comply with RICS’ requirements in respect of continuing professional development.”
2. RICS’ CPD requirements are:
 - i. All 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 Members must maintain a relevant and current understanding of the professional and ethical standards during a rolling three-year period. Any learning undertaken to meet this requirement may count as formal CPD; and
 - iv. Members must record their CPD activity online by 31 January.
3. In some circumstances, Members can request RICS to grant them an exemption of their CPD requirements.
4. The CPD requirements and obligations documentation sets out what happens if a Member fails to complete and record the CPD requirements. A Member’s first breach will attract a Fixed Penalty caution and will remain on the Member’s disciplinary record for a period of ten years. A Member’s second breach (within ten years of the receipt of a caution) attracts a Fixed Penalty caution and a fine of £150 or the local equivalent. RICS will also publish a list of Members who fail to meet the CPD requirements a second time on the RICS website. A Member’s third breach (within ten years of the receipt of a caution) attracts the potential to be referred to a Disciplinary Panel which may result in the Member being expelled from RICS membership and costs being awarded against them.
5. Mr Dingwall was a member of RICS from 1977 until he resigned in 2013. He then applied to be readmitted into the membership in 2017. He was not required to complete CPD in 2017.

6. The statement of Ms Jamie Edwards (RICS Lead Investigator) dated 23 November 2022 sets out Mr Dingwall's online CPD records and exhibited the relevant RICS records. The statement and RICS' records indicate Mr Dingwall's relevant CPD as follows:

2018	0.00 hours
2019	0.00 hours (Not targeted)
2020	0.00 hours
2021	0.00 hours

7. Ms Edwards stated Mr Dingwall's records indicated no CPD concessions (exemptions) were granted for the 2019 CPD year and this was consistent with the relevant RICS records that indicated Mr Dingwall had never been granted a relevant exemption.
8. In Mr Dingwall's email dated 5 August 2022 he conceded that his "CPD over the past years has been far from expectations". Based on the evidence, the charge has been proved to the civil standard.

FINDINGS OF FACT

9. I find the charge against Mr Dingwall has been proved to the civil standard.

LIABILITY FOR DISCIPLINARY ACTION

10. Mr Dingwall's email indicates he was aware of his ongoing CPD obligations. That obligation is not onerous and should have been incorporated into his professional activities.
11. I am satisfied the RICS requirements to complete and record 20 hours of CPD each year is reasonable. The CPD policy has been approved by RICS' Regulatory Board. CPD requirements are a RICS rule, and a single breach can give rise to a liability to disciplinary action. The purpose of ongoing CPD is to ensure public protection by consistent standards within the profession and RICS Members' have current knowledge in their area of expertise. RICS Members demonstrate compliance with their CPD requirements by recording their CPD activities online by 31 January following the CPD year.

12. Members of RICS agree to adhere to the RICS Rules, Regulations and Bye-Laws and accept that failure to do so could give rise to disciplinary action.
13. I am satisfied Mr Dingwall is liable to disciplinary action.

REGULATORY SANCTION

14. The purpose of sanctions is not to be punitive, although it may have that effect. Their purpose is to uphold the standards of a profession, safeguard the reputation of the profession and, RICS as the regulator, to protect the public. Sanctions must be proportionate to the breach after considering all the circumstances of a case.
15. Ms Claire Hoverd's statement dated 23 November 2022 states Mr Dingwall should have received email reminders to complete at least 20 hours of CPD on 15 November 2021, 14 December 2021, 11 January 2022, 9 February 2022, 23 February 2022, 26 April 2022, 10 May 2022 and 7 June 2022. He was sent paper reminders on 9 February 2022, 26 April 2022 and 7 June 2022. Those reminders referred to the RICS Sanctions Policy and the likelihood of expulsion for a third breach within 10 years.
16. On 3 August 2022 Mr Scott Riley (RICS Regulatory Support and CPD Officer) sent Mr Dingwall an email stating that Mr Dingwall had failed to comply with CPD requirements on two or more previous occasions and the RICS Sanctions Policy indicates this breach is likely to result in expulsion. Mr Riley invited Mr Dingwall to provide any information he considered relevant.
17. On 5 August 2022 Mr Dingwall replied to Mr Riley's email stating that his past CPD record over the past years "has often been due to [his] global travels and habitation in many different foreign countries." In addition, Mr Dingwall states many of the CPD events were not available in his location.
18. Ms Hoverd's statement dated 23 November 2022 states that from 2017 RICS sent out hard copies of the fine and caution sanctions related to CPD non-compliance. Ms Edwards' statement dated 23 November 2022 confirmed that at all relevant times RICS held a postal and email address for Mr Dingwall. She states Mr Dingwall received a caution for non-compliance of his CPD requirements in 2018 and a caution and fine for non-compliance of his CPD requirements in 2020. Ms

Edwards statement did not indicate whether Mr Dingwall had or had not paid the fine issued to him in 2021. However, RICS records indicate he has paid his membership fees.

19. This is Mr Dingwall's third breach of non-compliance with RICS' CPD requirements. He was aware of the CPD requirements and, as a long standing member of RICS, obligated to abide by RICS' rules. Despite being cautioned and cautioned and fined he has failed to record his CPD activities in 2021.
20. The breach is serious and RICS' Sanction Policy states there is a presumption of expulsion in the event of a third breach of Rule 6 of the Rules of Conduct for Members within 10 years of receipt of a caution for a breach of the same rule. In the circumstances, imposing no sanction, another caution or a reprimand would not be appropriate given the seriousness of the breach. Nor would an undertaking be appropriate given RICS CPD requirements are mandatory.
21. Mr Dingwall was fined in 2021 and the evidence before me is not clear as to whether that fine has been paid. Imposing another fine would not reflect the seriousness of the continuing non-compliance of Mr Dingwall's CPD requirements.
22. Mr Dingwall's email stated he was 72 years old. His financial circumstances and lack of pension meant he needed to continue to work. Given his age, he doubts he could now change professions and he would participate in CPD events for 2022 and 2023 "*in lieu of termination*" of his membership.
23. Mr Dingwall recorded no CPD hours in 2018, 2019, 2020 and 2021. RICS recorded "Exceptional Hardship" on 4 March 2020 in Mr Dingwall's file and he was not targeted for his 2019 CPD non-compliance. His engagement with the regulatory process has been minimal and his reasons for non-compliance - living in foreign countries and CPD events not being in his location - does not explain why Mr Dingwall has recorded no informal CPD or why he didn't attend online CPD training. Mr Dingwall's promising to participate in CPD events if his membership was not terminated, is a promise to do no more than what is expected from him as a Member of RICS.
24. Mr Dingwall stated his financial situation meant he needs to continue to work "until the end." However, Mr Dingwall was on notice of the likelihood of

expulsion, and was given ample opportunities to rectify his non-compliance but did not do so. Considering all the circumstances of this case, I am not satisfied the presumption of expulsion for a third breach of RICS' CPD requirements has been rebutted.

ORDER MADE

25. In accordance with Part VI of the Regulatory Tribunal Rules, I make the following order:

Mr Dingwall is expelled from the membership of RICS.

TAKING EFFECT OF ORDER

26. In accordance with Part VI of the Regulatory Tribunal Rules, this order will take effect 14 days from service of the Single Member's decision upon the Regulated Member, unless notification in writing is received from the Regulated Member or RICS stating that they consider that the findings and/or the Regulatory Sanction imposed by the Single Member are wrong.

COSTS

27. RICS has applied for costs in accordance with Supplement 2 to the Sanctions Policy: Fines, Costs and Administrative Fees. Mr Dingwall was found liable to disciplinary action. His submissions regarding his financial circumstances are that he must continue to work.

28. To ensure the costs of bringing these proceedings do not burden the whole RICS membership it is appropriate Mr Dingwall bear RICS' reasonable costs.

29. In accordance with Part VI of the Regulatory Tribunal Rules, I make the following order in respect to costs:

Mr Dingwall will pay RICS' costs of £350.

PUBLICATION

30. In accordance with Part VI of the Regulatory Tribunal Rules, the Single Member's Record of Decision will be published following the expiry of 14 days from service of the Single Member's decision upon the Regulated Member.