

DECISION SHEET

RICS Regulatory Tribunal Rules 2020

Part VI, Regulatory Tribunal Single Member Decision

Regulated Member: Mr Russell Houghton
Single Member Decision of: Jane Bishop
Case Number: CON001615
Date of Decision: 24 January 2023

CHARGE:

The formal charge against the Regulated Member (Mr Houghton) 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 022 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 Houghton has contravened Rule 6 of the Rules of Conduct for Members 2007 version 6 requiring RICS Members to undertake a minimum of 20 hours CPD each calendar year.

Mr Houghton 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 67 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 set out online and 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 Houghton was first admitted as a Member of RICS in 1994. The statement of Ms Carol Kerr (RICS Lead Investigator) dated 23 November 2022 sets out Mr Houghton’s online CPD records and exhibited the relevant RICS records. The statement and RICS’ records indicate Mr Houghton’s relevant CPD as follows:

2013	21 hours (7 formal)
2014	20 hours
2015	21.5 hours
2016	47 hours
2017	23 hours
2018	26 hours
2019	22.5 hours
2020	0.00 hours
2021	0.00 hours

6. Ms Kerr stated Mr Houghton's records indicated no CPD concessions (exemptions) were granted for the 2021 CPD year and this was consistent with the relevant RICS records.
7. Based on the evidence, the charge has been proved to the civil standard.

FINDINGS OF FACT

8. I find the charge against Mr Houghton has been proved to the civil standard.

LIABILITY FOR DISCIPLINARY ACTION

9. Mr Houghton has completed and recorded his CPD requirements from 2014 to 2019. In 2015 and 2016 his CPD requirements were recorded late. Mr Houghton was breached in 2015 and 2016 but those breaches were overturned on appeal.
10. In 2013 Mr Houghton was cautioned for not undertaking at least 10 formal CPD hours and in 2020 he was cautioned and fined. The evidence before me, is Mr Houghton is well 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 Houghton 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, as 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 Houghton 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 16 August 2022 Mr Scott Riley (RICS Regulatory Support and CPD Officer) sent Mr Houghton an email stating that Mr Houghton 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 Houghton to provide any information he considered relevant, but no information was received.
17. 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 Kerr's statement dated 23 November 2022 confirmed that at all relevant times RICS held a postal and email address for Mr Houghton. She states Mr Houghton received a caution for non-compliance of his CPD requirements in 2013 and a caution and fine for non-compliance of his CPD requirements in 2020. Mr Houghton has paid the fine issued to him in 2021 and the RICS records indicate he has paid his membership fees.

18. This is Mr Houghton's third breach of non-compliance with RICS' CPD requirements. He was aware of the CPD requirements and, as a 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.
19. 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.
20. Mr Houghton was fined in 2021 and the evidence before me is he has paid that fine. Imposing another fine would not reflect the seriousness of the continuing non-compliance of Mr Houghton's CPD requirements.
21. Mr Houghton was on notice of the likelihood of expulsion, and he was given ample opportunities to rectify his non-compliance but did not do so. There is a presumption of expulsion for a third breach of RICS' CPD requirements and, considering all the circumstances of this case, I am not satisfied that presumption has been rebutted.

ORDER MADE

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

Mr Houghton is expelled from the membership of RICS.

TAKING EFFECT OF ORDER

23. 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

24. RICS has applied for costs in accordance with Supplement 2 to the Sanctions Policy: Fines, Costs and Administrative Fees. Mr Houghton was found liable to disciplinary action and he provided no reasons for his breach.
25. To ensure the costs of bringing these proceedings do not burden the whole RICS membership it is appropriate Mr Houghton bear RICS reasonable costs.
26. In accordance with Part VI of the Regulatory Tribunal Rules, I make the following order in respect to costs:

Mr Houghton will pay RICS' costs of £350.

PUBLICATION

27. 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.