

## SINGLE MEMBER OF REGULATORY TRIBUNAL DECISION SHEET

### RICS Regulatory Tribunal Rules 2020

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

**Regulated Member: Mr Sam Walters**  
**Single Member Decision of: Alison Sansome**  
**Case Number: REG0000046573**  
**Date of Decision: 1 February 2023**

#### **CHARGE:**

The charge is:

*“Samuel Walters was convicted on 26 July 2019 of a criminal offence, namely Unlawful Wounding, which resulted in a custodial sentence of 2 years and 9 months imprisonment.”*

**Samuel Walters is therefore liable to disciplinary action under Bye-Law 5.2.2(d).**

#### **ALLEGED RULE/S BREACH**

1. Bye-Law 5.2.2(d) states “A member may be liable to disciplinary action under these Bye-Laws, whether or not he was a member at the time of the occurrence giving rise to that liability, by reason of having been convicted of a criminal offence which could result in a custodial sentence”
2. Regulation 2.1.2. Every Member, including members of the Attached Classes, shall comply with any Rules concerning conduct in accordance with Bye-law 2.4.3.

## **MATERIALS CONSIDERED**

3. In assessing this case I have considered a submitted bundle of 64 pages, which included:

- A Chronology of Events
- RICS Rules, Guidance, Law and Procedure
- Certificate of Conviction
- Sentencing Remarks by HHJ Smith
- Defence Statement
- Character References
- Advice and Grounds of Appeal Against Sentence
- Personal Account from Mr Walters
- Correspondence from RICS to Mr Walters on this matter
- Correspondence received from Mr Walters on this matter

## **BACKGROUND**

4. Mr Walters was admitted as a student member of RICS on 10 December 2014, whilst at university. As such he is a member of the 'Attached Classes' as defined by Regulation 2.1.2.

5. On 3 November 2018, Mr Walters, then aged 21, was involved in an altercation with Mr Paul Everard-Robbins at the Early Bird public house, during which a glass was shattered over Mr Everard-Robbins, who sustained a significant injury. As a result of this incident Mr Walters was arrested.

6. Mr Walters was subsequently convicted of Unlawful Wounding at Maidstone Crown Court on 26 July 2019. At the trial he pleaded not guilty as he believed that he was acting in

self-defence. He argued that he put his hands out to defend himself from Mr Everard-Robbins' approach, but as he was carrying two drinks, he had a full glass in each hand.

7. Mr Walters did admit to using a racial slur, which he said he regretted and did not seek to defend his behaviour on that point.

8. In his sentencing remarks on 26 July 2019, HHJ Smith stated that he viewed the assault to be racially aggravated, as a result of the above racial slur, which caused the sentence to be increased by 3 months. He did however clarify that he did not consider Mr Walters to be racist nor motivated by racial attitudes. HHJ Smith also stated that Mr Everard-Robbins had suffered a lifelong disfigurement and that he found the act of smashing a glass over Mr Everard-Robbins' head, "whilst not pre-meditated it was nonetheless an intended act on your part to inflict a blow with that glass, albeit not to inflict really serious injury".

9. The sentencing remarks were also critical of Mr Walters failure to acknowledge responsibility or criminal culpability for his actions and for his lack of remorse throughout the trial, although there was reference to some reflections and remorse by Mr Walters at the very end of the trial.

10. The sentencing remarks did also recognise some positives for Mr Walters, in terms of his good character and the strong character references provided, stating 'The achievement those references speak to are impressive. Your prospects have been and will be again positive and considerable.'

11. Mr Walters was found guilty and was sentenced to 2 years and 9 months imprisonment. Mr Walters' solicitor submitted an appeal against the sentence on his behalf, which was unsuccessful.

12. Mr Walters spent 1 year in prison before being released on licence for the rest of his sentence due to good behaviour.

13. Mr Walters spent the months/years following his release seeking to build his surveying career and secured employment with property consultants Pick Everard, where he had successfully completed a probationary period by the start of November 2021.

14. Mr Walters did not initially report his conviction to RICS; however he did declare this conviction to RICS when prompted to do so during his application to enrol as an APC candidate. However this was 2 years and 3 months after the date of conviction. He has, however, engaged with RICS on this matter since he did report it on 2 November 2021.

15. I have considered this case in three distinct stages, moving to the next stage only if there is a requirement to do so as a result of the findings of the previous stage. These stages are:

- i. Stage 1 – Finding of Fact
- ii. Stage 2 – Liability for Disciplinary Action
- iii. Stage 3 – Sanction

## **FINDINGS OF FACT**

16. Rule 121(d) provides that where the Member has been convicted of a criminal offence a certified copy of the conviction or equivalent shall be admissible as proof of that conviction and of the Member's commission of that offence.

17. I note the Certificate of Conviction from Maidstone Crown Court dated 26 July 2019. I also note that Mr Walters did not challenge this allegation.

18. Accordingly I find the factual allegation proved on the basis of the Certificate of Conviction presented.

### **LIABILITY FOR DISCIPLINARY ACTION**

19. RICS Bye-Law 5.2.2(d) provides that a Member may be liable to disciplinary action by reason of 'having been convicted of a criminal offence which could result in a custodial sentence.'

20. Mr Walters' conviction for the offence of Unlawful Wounding is very serious indeed and he received a custodial sentence of 2 years and 9 months.

21. In committing this offence Mr Walters conduct fell well short of the standards expected of RICS members.

22. Accordingly I have no difficulty in finding that Mr Walters is liable to disciplinary action as a result of his conviction under Byelaw 5.2.2(d).

### **REGULATORY SANCTION**

23. RICS is a professional membership organisation and sets standards of conduct for its members as a condition of membership and this includes 'attached classes' such as students.

24. I kept in mind that the purpose of sanctions is not to be punitive, though they may have that effect. The purpose of sanctions is to protect the public, declare and uphold the standards of the profession and safeguard the reputation of the profession and of RICS as its regulator.

25. I have considered the written submissions made and the supporting information provided on behalf of RICS and Mr Walters, carefully weighing the aggravating and mitigating factors of this case.

26. I was also mindful that sanctions must be proportionate and therefore started by considering the lowest sanction, moving up the scale of gravity only when the sanction under consideration was insufficient to meet the public interest and needs of the case. I also considered carefully the mitigating and aggravating factors of this case.
27. I consider that the following are aggravating factors in this RICS case:
- ~ Mr Walters took some 2 years and 3 months to notify RICS of his conviction.
  - ~ Mr Walters personal account of the incident leading to his conviction differs from the court proceedings and seeks to blame the other party, this indicates that Mr Walters has not accepted full responsibility for his actions.
  - ~ Mr Walters has not demonstrated strong remorse and insight in his written submissions to date. The sentencing remarks of HHJ Smith are critical of Mr Walters in this regard referring to his not guilty plea and of his failure to display any remorse for most of the trial.
28. I consider the following to be mitigating factors in this RICS case.
- ~ Mr Walters has no previous disciplinary record.
  - ~ Although the conviction was in 2021, the offence at the heart of this case was committed over 4 years ago (in 2018) when Mr Walters was 21, he is now 26, employed following his release from prison, and seeking to pursue a career as a Chartered Surveyor.
  - ~ This was an isolated incident of violence, which the Court 'accept without hesitation that this is far out of character, completely so'.
  - ~ Mr Walters has provided 4 very positive character references to RICS, both personal and professional. They indicate that Mr Walters is a kind, non-violent, compassionate, hardworking and trustworthy individual, with professional references stating that he is dependable and has a strong skill set. These

references were also accepted by the Court with the sentencing remarks recognising ‘They are as I say glowing and I give you credit in terms of the view held of you by those who have come to know you’.

- ~ Mr Walters demonstrates reflection and insight regarding the need to notify RICS of issues at an earlier stage.

29. I firstly considered whether to impose a sanction at all, however I find that the circumstances giving rise to this case are far too serious not to impose a sanction. Any criminal conviction of this seriousness is incompatible with the behaviours expected of a member of RICS and risks bringing the profession into disrepute.

30. I went on to consider whether to impose a caution, but the conduct in question could not be described as minor in any way. I concluded that neither a caution or reprimand would sufficiently reflect the seriousness of the case, nor address the public interest, therefore neither of these sanctions would be proportionate or appropriate.

31. In view of the very serious nature of this case and the associated custodial sentence, along with the limited acceptance of personal responsibility and partial insight shown to date by Mr Walters’ submissions, I do not consider undertakings or conditions to be a sufficient or workable response.

32. I went on to consider the imposition of a fine. I did not find that a fine would be effective or appropriate as it would not reflect the weight of the findings in this case nor address public interest.

33. Having carefully considered all of the above sanctions I concluded that these were not proportionate or appropriate in this case. Given the seriousness of the conviction, the

substantial custodial sentence and the overarching duty to the public interest I concluded that there was no alternative in this case but to impose the sanction of expulsion.

34. I recognise that expulsion is a sanction of last resort, to be used in cases where there is no other means of protecting the public and the wider public interest. I determined that this is such a case at this time. Carefully considering the mitigating factors present in this case and what allowance should be made for these in terms of elapsed time since the offence was committed, the Member's relatively young age at that time, the isolated nature of the offence, the strong character references provided and the efforts of Mr Walters to build a successful career. However, these considerations were outweighed by the overriding gravity of the case and the weight of public interest needs.

35. I would note that when a member is expelled, there is normally a provision for him or her to re-apply for membership after a period of at least 12 months, giving a member the opportunity to show how they have addressed issues and otherwise demonstrate their suitability for RICS membership at a future point.

#### **ORDER MADE**

36. Having read all the papers provided and carefully considered the evidence, the aggravating and mitigating factors and the available sanctions, in accordance with Part VI of the Regulatory Tribunal Rules (Rule 107(f) ii) I make the following order:

**Mr Walters shall be expelled from membership as a student member of RICS.**

#### **TAKING EFFECT OF ORDER**

37. 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**

38. I cannot determine from the evidence submitted that the schedule of cost has been shared directly with the member, therefore I make no order for costs in this case.

### **PUBLICATION**

39. 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.