

SINGLE MEMBER OF REGULATORY TRIBUNAL DECISION SHEET

RICS Regulatory Tribunal Rules 2020

Part VI, Regulatory Tribunal Single Member Decision

Regulated Member: SHAUN HEAP
Single Member Decision of: Patrick Bligh-Cheesman
Case Number: CON001607
Date of Decision: 26 January 2023

1. CHARGE:

Between 1 January 2021 and 1 February 2022, you 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.

2. ALLEGED RULE/S BREACH

Contrary to Rule 6 of the Rules of Conduct for Members 2007 version 6.

The Regulated Member is therefore liable to disciplinary action under Bye-law 5.2.2(c)

3. MATERIALS CONSIDERED

I have considered the Investigation Report, together with the associated statements and exhibits.

4. BACKGROUND

Mr Heap is a member of RICS (AssocRICS) and was first admitted on 24.12.1998. This is his third breach of CPD requirements.

5. FINDINGS OF FACT

The records show that he failed to record the required hours of CPD in 2014 and 2016 and received a caution and caution and fine respectively for those breaches. Between 2017 and 2020 Mr Heap met the RICS CPD requirements. Mr Heap has recorded no CPD for 2021. Having been a member since 1998 and been subject to two previous sanctions, I am

satisfied that he would have been aware of his obligations in respect of CPD. The fine in respect of the 2016 breach has been paid and the membership subscription for 2021 was paid.

During the investigation, the records indicate that Mr Heap should have received 8 written communications from RICS by way of reminders in respect of his CPD both before and after the due date for the 2021 CPD. Initially, Mr Heap emailed RICS (undated) to request an extension to complete his CPD by 11.2.2022. RICS replied on 7.2.2022 to say that they could not extend the deadline but recommended that he uploaded his CPD as soon as possible. RICS then emailed Mr Heap on 21.6.2022 to say that 'our records show that you have not completed your 2021 CPD. Mr Heap replied (undated) to say that he valued his RICS membership as a professional and business owner. He said that he was confident that he could complete the informal CPD but had a shortfall with the formal CPD. He asked if he could discuss maintaining his membership further.

RICS also made a phone call to the member on 12 August 2022 and emailed him on 12.8.2022. Mr Heap responded asking if he could discuss continuing his membership further.

Notice of Disciplinary Proceeding was sent to Mr Heap on 3.11.2022. He responded saying, '2021 proved to be a challenging year as it was the first year of COVID and so my energy went into maintaining business and so I found fulfilling the Formal element of CPD was difficult.'

There are no recorded relevant exemptions or concessions. Furthermore, there is no returned listing questionnaire in the report.

I find the facts as set out in the investigation report proved.

6. LIABILITY FOR DISCIPLINARY ACTION

The requirement to complete and record CPD is designed to ensure that a member's knowledge is up to date and ultimately to ensure public protection. I find that Mr Heap's failure to comply with those requirements is sufficiently serious as to give rise to a liability to disciplinary action.

7. REGULATORY SANCTION

This is Mr Heap's third breach of the RICS requirements for CPD and I find that he is liable to regulatory sanction. There is a presumption of expulsion for a third breach subject to the circumstances of the case and any mitigating or aggravating factors. I have noted that Mr Heap has engaged with the disciplinary process and cited the pressures of COVID upon his business by way of explanation/mitigation for his non-compliance. I have also noted that Mr Heap values and wants to continue his RICS membership and has completed his CPD for 2022/3. I am satisfied that Mr Heap has demonstrated insight and taken steps towards ensuring future compliance.

I have carefully considered the Sanctions Policy and the aggravating and mitigating factors of this case. Accordingly, I have decided that Mr Heap should not be subject to expulsion and will now consider the appropriate sanction.

Given the previous sanctions given to Mr Heap for breach of CPD requirements, I do not consider that either a caution, reprimand or fine on their own would be sufficient in this case. I do not consider that either a condition or undertaking to do something that is already an

obligation upon the regulated member would be appropriate. In the circumstances pertaining to this case, I have therefore decided that Mr Heap should be subject to a caution and a fine of £350.

8. ORDER MADE

In accordance with Part VI of the Disciplinary, Registration and Appeal Panel Rules, I make the following order:

That Mr Heap be issued with a caution and a fine of £350

9. TAKING EFFECT OF ORDER

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.

10. COSTS

In accordance with Part VI of the Disciplinary, Registration and Appeal Panel Rules, I make the following order in respect to costs:

In the absence of any statement of means and/or any documentary evidence of Mr Heap's financial circumstances, I have been unable to identify any reason for reducing the costs. I have concluded that the costs are fair and reasonable.

I therefore order that Mr Heap pay the costs of £350.

11. PUBLICATION

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.