



SINGLE MEMBER OF REGULATORY TRIBUNAL DECISION SHEET

RICS Regulatory Tribunal Rules 2020

Part VI, Regulatory Tribunal Single Member Decision

Regulated Member: Ann Dunham-Jones
Single Member Decision of: Rosalyn Hayles
Case Number: CON001826
Date of Decision: 24 January 2024

CHARGE:

The formal charge against the Regulated Member is:

'Between 1 January 2022 and 1 February 2023, 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.'

Contrary to Rule 1 and 2 of the Rules of Conduct

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

ALLEGED RULES/BREACH

1. Bye-law 5.2.2 provides:

'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:

...(c) a failure to adhere to these Bye-Laws or to Regulations or Rules governing Members' conduct ...'

2. Rule 1 of the Rules of Conduct states: *'Members and firms must be honest, act with integrity and comply with their professional obligations, including obligations to RICS'.*
3. Appendix A to the Rules of Conduct sets out the core professional obligations for members and firms. It states that: *'The following professional obligations to RICS are mandatory for RICS members.*
 1. *Members must comply with the CPD requirements set by RICS'.*
4. Rule 2 of the Rules of Conduct states: *'Members and firms must maintain their professional competence and ensure that services are provided by competent individuals who have the necessary expertise'.*
5. RICS' requirements in respect of CPD are set out in the document *'CPD Requirements and obligations'* (the CPD requirements) and include requirements that:
 - (i) All RICS 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 RICS members must maintain a relevant and current understanding of RICS professional and ethical standards during a rolling three-year period. Any learning undertaken in order to meet this requirement may count as formal CPD.
 - (iv) All members must record their CPD activity online by 31 January.
6. The CPD requirements confirm that for a first breach of this rule the member would receive a Fixed Penalty Caution which will remain on the member's disciplinary record for a period of 10 years. A second breach will result in a further Caution and a Fixed Penalty Fine of £150 or equivalent. Non-payment of the Fixed Penalty within 28 days of notification will lead to the fine being increased to £250. A third CPD breach will result in referral to a disciplinary panel which may result in expulsion from membership and the award of costs against the member.

MATERIALS CONSIDERED

7. I have been provided with and duly considered a bundle of 74 pages, consisting of the following documents: RICS Rules, Guidance, Law and Procedure; RICS' Investigation Report Part 1 – Facts and LDA, which includes a statement made by RICS' Lead Investigator, Jamie Edwards (dated 10 November 2023), as well as a statement made by RICS' Regulations Team Support Manager, Claire Hoverd (dated 10 November 2023); RICS' Investigation Report Part 2 – Sanction, which includes a

further statement made by each of Claire Hoverd and Jamie Edwards (each dated 10 November 2023); general correspondence with Member, Disclosure and Response; Schedule of Costs; and the Head of Regulation decision dated 4 January 2024. I have also been provided with and considered an additional one-page email from Ms Dunham-Jones to the RICS, dated 13 January 2024.

BACKGROUND

8. The statement of Jamie Edwards within RICS' Investigation Report Part 1 exhibits printouts of records from RICS' electronic system relating to Ms Dunham-Jones's contact details (including her preferred email address) and recorded CPD activity in the period from 2013 to 2022. Jamie Edwards' statement says that: if the printouts show a blank row for any year between 2017-2021, that indicates that no CPD was recorded; and that for the years 2013-2016, if the printout does not contain an entry, that indicates that no CPD was recorded for that year.
9. In relation to Ms Dunham-Jones's records, Jamie Edwards states that the information shows that she recorded 13 informal hours in 2016 and that she benefited from a CPD concession in 2018, 2019, 2020 and 2021. No CPD is recorded for 2017 or 2022. The exhibited printout of Ms Dunham-Jones's '*CPD Annual Summary Associated View*' (exhibit JE/2) confirms the information set out in Jamie Edwards' statement. The exhibited printout of Ms Dunham-Jones's RICS Record (exhibit JE/3) shows that she did not benefit from a CPD exemption or concession for the 2022 CPD year.
10. The statement of Claire Hoverd with RICS' Investigation Report Part 1 sets out the communications which were sent to RICS members who had not completed the required CPD for the 2022 CPD year by the deadline (those

communications being sent by email to each member's preferred email address as recorded on their RICS profile).

11. Claire Hoverd states that Ms Dunham-Jones was identified as being one of the members who had not recorded the required number of CPD hours for the 2022 CPD year, and that she therefore ought to have been sent email reminders about the requirements for completing and recording CPD on the following dates: 16 November 2022, 14 December 2022, 11 January 2023, 8 February 2023, 22 February 2023, 8 March 2023, and 13 March 2023. Ms Hoverd states that those reminders included standard wording noting that: the recipient had failed to comply with RICS' CPD requirements on two or more previous occasions within the preceding ten-year period; and *'The RICS Sanctions Policy stipulates that such breaches may be referred to a Disciplinary Panel or a Single Member of the Regulatory Tribunal, and are likely to result in expulsion from the RICS'*.

FINDINGS OF FACT

12. I refer to the statement of Jamie Edwards within RICS' Investigation Report Part 1, which exhibits a printout of the record from RICS' electronic system relating to Ms Dunham-Jones's recorded CPD activity.
13. I accept that if the printout does not contain an entry for a particular year, that indicates that no CPD was recorded for that year. There is no entry on Ms Dunham-Jones's CPD printout in respect of the 2022 CPD year. I note that there is no evidence that she applied for any RICS exemption or concession which would have allowed her to avoid compliance with that

requirement during that period.

14. Accordingly, I find the factual allegations proved, based on the documentary evidence produced by RICS.

LIABILITY FOR DISCIPLINARY ACTION

15. I am satisfied that RICS' requirements to complete and record CPD are reasonable and that Ms Dunham-Jones's failure to comply with those requirements is sufficiently serious to give rise to liability for disciplinary action. In reaching that conclusion I have taken into account the fact that the CPD policy has been approved by the Standards and Regulation Board and that compliance with the professional obligation regarding the CPD requirements set by RICS is expressly mandated within the RICS Rules of Conduct. In addition, the Sanctions Policy makes it clear that even a single breach of CPD requirements is sufficient to give rise to a liability for disciplinary action (and result in a Fixed Penalty (caution)). I note that the purpose of the CPD requirements is to ensure that there are consistent standards within the profession and that members maintain up to date knowledge in their area of expertise in the interests of protecting the public and the wider public interest. I note that all members agree to adhere to the RICS Rules, Regulations and Bye-Laws and accept that they may be subject to disciplinary action if they fail to do so.

16. I am satisfied that Ms Dunham-Jones was given every opportunity to comply with the CPD requirements. In reaching that conclusion I have taken account of the evidence that she previously obtained a CPD concession for the CPD years 2018, 2019, 2020 and 2021, and it is

therefore clear that she was aware of the CPD requirements.

17. While I note the evidence of Claire Hoverd about the reminders that would have been sent to Ms Dunham-Jones in 2022 and 2023 concerning compliance with the CPD requirements, I am mindful that in any event Ms Dunham-Jones's obligation to comply with the CPD requirements was not contingent on receiving any such reminders from RICS.

18. Accordingly, I am satisfied that Ms Dunham-Jones is liable to disciplinary action.

REGULATORY SANCTION

19. I note that the evidence from the CPD printout exhibited to Jamie Edwards' statement is that Ms Dunham-Jones did not record any CPD in the 2022 CPD year.

20. I take into account the Sanctions Policy and Ms Dunham-Jones's disciplinary history which is as follows (as set out in Jamie Edwards' statement within Part 2 of RICS' Investigation Report):

2016 caution

2017 caution and fine.

21. In Jamie Edwards' statement she states that Ms Dunham-Jones paid the fine issued in respect of her non-compliance in the 2017 CPD year, and paid her RICS membership fee for 2022. Jamie Edwards' statement exhibits a copy of the letter which ought to have been sent to Ms Dunham-Jones relating to the caution and fine in respect of the 2017 CPD year. That letter stated that if Ms Dunham-Jones failed to comply with the CPD requirements on a further occasion in the next ten years a *'further penalty'* would apply. It also said that if Ms Dunham-Jones failed to comply

with the CPD requirements in 2018, she would be referred to '*a Disciplinary Panel*'.

22. Claire Hoverd's statement confirms that multiple reminders would have been sent to Ms Dunham-Jones's preferred email address, at regular intervals, between November 2022 and March 2023. I am satisfied that the reminders would have been correctly addressed to the preferred address then held on file for Ms Dunham-Jones.
23. It appears that Ms Dunham-Jones has only engaged with the regulatory process in respect of her non-compliance with the CPD requirements for the 2022 year at a late stage. She was notified on 14 November 2023 that the Head of Regulation was to consider whether to refer her to a Single Member of the Regulatory Tribunal in respect of her alleged non-compliance with the CPD requirements for the 2022 CPD year. Ms Dunham-Jones did not respond to that notification until 13 January 2024, when she sent an email stating that she was '*in the process of requesting to leave the RICS*' and that she had been unable to work since mid-2018 due to ill-health. She said that her health is improving and that she does not wish to work as a quantity surveyor/project manager in the construction sector in future, in order to avoid stressful and demanding work which could adversely affect her health. She apologised '*for not communicating this sooner*' and said that she had not done any CPD '*in the last few years*'. There is no information before me to suggest that Ms Dunham-Jones had communicated any intention to leave RICS' membership to RICS prior to the email she sent on 13 January 2024.
24. RICS is a professional membership organisation and sets standards for its members as a condition of membership. The recording of CPD is RICS' line

of sight to ensure compliance and in turn give protection to the public. Compliance is not optional. It is not difficult to record CPD online and the CPD requirements are not dependent on the RICS sending reminders to its members.

25. I bear in mind that the purpose of sanctions is not to be punitive (although a sanction may have a punitive effect). The purpose of sanctions is to declare and uphold the standards of the profession, to safeguard the reputation of the profession and of RICS as its regulator, and to protect the public. Sanctions must be proportionate to the breach and all the circumstances, and a decision should be reached having taken into account any mitigating and/or aggravating factors.

26. I am mindful that the Sanctions Policy sets out a presumption of expulsion in the event of a third breach of the CPD requirements within 10 years. That presumption can be rebutted, depending upon the circumstances of the case.

27. I consider that the following mitigating factors are present in this case:

- Ms Dunham-Jones has engaged with RICS about her failure to complete CPD for the 2023 CPD year, albeit at a late stage.
- Ms Dunham-Jones has said that she has been unable to work since mid-2018 due to ill-health. I accept it is likely that any such ill-health would also have made it difficult for her to complete any CPD.
- Ms Dunham-Jones has apologised for failing to communicate her situation to RICS at an earlier date. She has said that she is the

process of *'requesting to leave the RICS'*.

28. I consider that the following aggravating factors are present in this case:

- Ms Dunham-Jones clearly understands the CPD requirements, as she applied for CPD concessions (relating to her ill-health and unemployment) in 2018, 2019, 2020 and 2021.
- It appears from RICS' records that Ms Dunham-Jones has never actually completed the required 20 hours of CPD in any CPD year. While her non-completion of CPD for several of the CPD years did not amount to a breach of the CPD requirements (as she held valid CPD concessions) her overall CPD record nevertheless suggests a risk that she is not up to date and may not have maintained her professional competence.
- Ms Dunham-Jones' stated intention to cease being a regulated member of RICS and to stop working as a quantity surveyor/project manager in the construction sector suggests that there is no realistic prospect of her completing the required CPD in future.
- This is the third breach of the CPD requirements.

29. I first considered whether to impose any sanction. I concluded that the failure to record any CPD for the 2022 CPD year was serious set against the context of Ms Dunham-Jones' previous failures to comply with the CPD requirements, and that in the absence of exceptional circumstances, imposing no sanction would be neither proportionate nor appropriate. In reaching that conclusion I noted that Ms Dunham-Jones had been sent

numerous reminders by RICS about the CPD requirements in 2022 and 2023. Ms Dunham-Jones has not suggested that she did not receive the reminders, and even if she did not receive them, it remained her responsibility to ensure her compliance with her obligations in terms of CPD. It is evident that she was aware of the CPD requirements, given her previous successful applications for CPD concessions.

30. I then considered whether a caution would be a sufficient sanction in this case. I concluded that a caution by itself would not adequately reflect the seriousness of the case, recognising the cumulative pattern of non-compliance, as well as the fact that a caution had already been imposed in response to previous breaches, and had not resulted in Ms Dunham-Jones's subsequent consistent compliance with the CPD requirements.

31. I also considered imposing a reprimand. The Sanctions Policy advises that a reprimand may be given where there has been/is a risk of public harm. I considered that there is a risk of public harm in this case, in light of Ms Dunham-Jones's admission that she has not completed any CPD for several years, as it is evident that (as a result) she may not be up to date. I therefore considered that a reprimand could potentially be an appropriate sanction to impose. However, I decided that a reprimand by itself would not be sufficient either: to reflect the seriousness of Ms Dunham-Jones's repeated failure to comply with the CPD requirements; or to address the risk to public protection which arises as a result of her failure to comply with the CPD requirements. I therefore went on to consider the other available sanctions.

32. In considering whether an undertaking would be the appropriate sanction, I took into account the mandatory nature of the CPD

requirements. I also noted that the CPD requirements are designed to ensure that the skills and knowledge of members are kept up to date, ultimately in order to ensure public protection. I concluded that it would not be appropriate or proportionate, in the absence of extenuating circumstances, to impose an undertaking in this case. I then considered whether the mitigation presented by Ms Dunham-Jones (in respect of her ill-health) could amount to such extenuating circumstances, and decided that potentially it could.

33. However, having taken into consideration the following factors:

- Ms Dunham-Jones has not offered any undertaking or assurance about her future compliance with the CPD requirements; and
- Ms Dunham-Jones has indicated that she does not intend to return to working as a quantity surveyor/project manager in the construction sector or to continue her RICS membership,

I concluded that it is highly unlikely that Ms Dunham-Jones would be willing or able to comply with any undertaking concerning future compliance with the CPD requirements. In my view, imposing an undertaking in such circumstances would be inappropriate, as it might undermine public trust and confidence in the regulatory process.

34. I went on to consider whether imposing a fine would be a sufficient sanction in this case (either on its own, or in combination with another sanction). I recognised that there was a cumulative pattern of non-compliance, and that a fine had already been imposed in response to a

previous breach.

35. I noted that while payment of the fine had not resulted in Ms Dunham-Jones consistently complying with the requirements in subsequent CPD years, she did apply for CPD concessions in 2018, 2019, 2020 and 2021, and her only failure to comply in the period post-dating the payment of the previous fine was in 2022. I also took account of the mitigation put forwards by Ms Dunham-Jones in respect of her ill-health (as set out earlier in this decision) as well as her apology and the statement she has made about her future intentions regarding RICS membership.
36. I concluded, on balance, that while imposing a fine by itself would not be a sufficient sanction in terms of the wider public interest (because Ms Dunham-Jones has breached the CPD requirements for a third time in a ten-year period, and because the previous imposition of a fine has not resulted in subsequent consistent compliance) it could potentially be sufficient if it were possible to impose a fine in combination with a condition assuring Ms Dunham-Jones's future compliance with the CPD requirements.
37. I went on to consider the possibility of imposing conditions. In doing so I was mindful that any condition imposed must be specific, measurable, achievable, realistic and time-bound, as well as being proportionate and addressing all the issues. I took the view that imposing conditions may be appropriate in certain circumstances in response to non-compliance with the CPD requirements.
38. I was mindful that Ms Dunham-Jones has engaged with the regulatory process which is to her credit, and that she has given an account of the

mitigating circumstances which meant she was unable to complete any CPD for the 2022 CPD year. I also took into account the fact that Ms Dunham-Jones has not suggested that she plans to comply with the CPD requirements going forwards. I considered it entirely understandable, in light of Ms Dunham-Jones's stated intentions regarding her future career and membership of RICS, that she had not provided any assurance about compliance with the CPD requirements in future.

39. I concluded that in the circumstances set out above (and in particular, Ms Dunham-Jones's stated intentions regarding her future career and membership of RICS) imposing a condition in respect of Ms Dunham-Jones' future compliance with the CPD requirements would serve little purpose, and would not be achievable or realistic. I also concluded that imposing such a sanction might undermine public trust and confidence in the regulatory process, as the member in this case has not offered any assurance that she will comply with the CPD requirements in future, and in fact her stated intention is to cease being an RICS member.

40. Having determined that imposing conditions would not be appropriate in the particular circumstances of this case for the reasons set out above, I concluded that the only appropriate sanction was that of expulsion from RICS membership. I recognised that expulsion is a sanction of last resort and should be reserved for those categories of cases where there is no other means of protecting the public or the wider public interest. I was mindful of the mitigating circumstances in this case, that Ms Dunham-Jones has engaged with RICS and that she has apologised for failing to communicate her position to RICS at an earlier stage. However, I was also mindful that:

- The completion of CPD is required by RICS in order to ensure that RICS members remain professionally competent, and it thereby serves an important purpose in terms of both protecting the public and maintaining public confidence in the profession.
- Ms Dunham-Jones does not appear to have completed the required amount of CPD in any CPD year. That suggests that her knowledge may not be up to date and that she may not have maintained her professional competence, which raises a potential risk to public protection.
- While Ms Dunham-Jones has apologised for the delay in communicating her position to RICS, she has not expressly recognised the importance of CPD.
- Ms Dunham-Jones has not provided any assurance about her compliance with the CPD requirements in future. In fact, her stated intentions about her membership of RICS and future work plans suggest that she would not be in a position to achieve compliance with the CPD requirements going forwards.

41. I concluded on balance that any sanction other than expulsion would be insufficient and would undermine public trust and confidence. In reaching that conclusion I carefully balanced the wider public interest against Ms Dunham-Jones's interests. I had regard to the impact that expulsion may have on her and her professional standing, but concluded that her interests are significantly outweighed by the significant public interest concerns raised by this case. I was also mindful that paragraph 21.1 of the Sanctions Policy states that expulsion is likely (unless there are

extenuating circumstances) where there is a third breach of the Rules of Conduct requirements for CPD within 10 years of receipt of a caution for breach of the same Rule, and paragraph 22 of the Sanctions Policy refers to a 'presumption of expulsion' in those circumstances.

ORDER MADE

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

That Ann Dunham-Jones shall be expelled from membership of the RICS.

TAKING EFFECT OF THE ORDER

43. 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

44. Ms Dunham-Jones has not made any submissions about RICS' application for costs. I therefore make the following order in respect of costs, in accordance with Part VI of the Regulatory Tribunal Rules:

Ms Ann Dunham-Jones will pay costs in the amount of £350.

PUBLICATION

45. 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.