

RICS Regulatory Tribunal Rules 2020

Part VI, Regulatory Tribunal Single Member Decision

Regulated Member: Natasha Firman

RICS Membership No: 1187184

Location: UK

Single Member Decision of: Deborah Fajoye

Date of Decision: 19 January 2024

CHARGE:

The 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 Rules 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 RULE/S BREACH

RICS' requirements in respect of Continuing Professional Development ("CPD") are set out in the document 'CPD Requirements and Obligations'. They include requirements that *"All members must undertake a minimum of 20 hours CPD each calendar year (January to December)"* and that *"Members must record their CPD activity online by 31 January"*.

Contrary to Rule 6 of the Rules of Conduct for Members 2020 version 7.

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

MATERIALS CONSIDERED

- RICS Investigation report with associated statements and exhibits.
- Rule 6 of the Rules of Conduct for Members 2020 version 7.
- RICS Bye-law 5.2.2(c).
- RICS CPD Requirements and Obligations dated 14/03/2019.
- RICS CPD FAQs.
- Part VI RICS Regulatory Tribunal Rules version 2 dated 02/02/2022.

- RICS Sanctions Policy: Guidance to RICS Regulatory Tribunal Rules version 9 dated 02/02/2022.

BACKGROUND

RICS requirements in respect of CPD are set out in the RICS document 'CPD Requirements and Obligations', and it states *"all members (AssocRICS, MRICS and FRICS) must record their CPD online"*. The key requirements are:

- All members must undertake a minimum of 20 hours CPD each calendar year (January to December).
- Of the 20 hours at least 10 hours must be formal CPD. The remainder can be informal CPD. (For guidance, see below and download examples.)
- All members must maintain a relevant and current understanding of our professional and ethical standards during a rolling three-year period. Any learning undertaken in order to meet this requirement may count as formal CPD.
- Members must record their CPD activity online by 31 January.

Natasha Firman ("Ms Firman") is a member of RICS ("MRICS") and was first admitted on 13 November 2006 and they practice in the United Kingdom.

This is Ms Firman's third breach of CPD requirements within a 10-year period.

FINDINGS OF FACT

I have carefully considered the investigation report and disciplinary bundle provided by RICS. These clearly set out Ms Firman's alleged failings regarding CPD requirement. I have made the following observations:

- The records show that Ms Firman recorded 0 hours CPD in 2018 and 0 hours in 2019 (CPD was recorded late). They received a caution for the first breach, and a caution and fine for the second breach. The RICS confirm that Ms Firman settled the fixed penalty fine issued in 2020 for CPD non-compliance in 2019 and paid their membership fees, which indicates their intention to continue practising.
- Ms Firman recorded 5 formal hours of CPD for 2022 and the evidence demonstrates they had no relevant CPD exemption and/or concession for the relevant year.
- This is Ms Firman's third breach of CPD requirements in a 10-year period.
- Having been a member since 2006, and been subject to two previous CPD related sanctions, I am satisfied that Ms Firman would have been cognisant of their obligations in respect of CPD.
- The records indicate that Ms Firman should have received seven written communications from RICS by way of reminders in respect of their CPD, both before and after the due date for the 2022 CPD.
- On 15 November 2023, RICS sent a 'CPD Disciplinary Proceedings' letter to Ms Firman, including the CPD disciplinary bundle, listing questionnaire, statement of means form, and schedule of costs. Ms Firman has not responded to this letter nor have they provided any submissions providing an explanation for this alleged breach.

In light of the above, I find the facts as set out in the investigation report proved.

LIABILITY FOR DISCIPLINARY ACTION

The requirement to complete and record CPD is a mandatory and core obligation of RICS membership (unless exempt). It is designed to ensure that a member has the required up-to-date competence and knowledge to practice safely and ultimately ensure public protection. **I have determined that Ms Firman's failure to comply with those requirements is sufficiently serious to give rise to a liability to disciplinary action.**

REGULATORY SANCTION

This is Ms Firman's third breach of the RICS requirements for CPD in accordance with Rule 6 of the Rules of Conduct for Members 2020. Therefore, I find that they are 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 carefully considered the Sanctions Policy and the aggravating and mitigating factors of this case.

I have taken into account the following aggravating factors:

- It is noted that this is Ms Firman's third CPD breach within a 10-year period of receipt of a caution. As such, the alleged breach is not an isolated failure.
- Ms Firman settled the fixed penalty fine issued in 2020 for CPD non-compliance in 2019, and has paid their membership fees up until 2024, and this would suggest that they intend to continue practising without complying with CPD requirements.
- Ms Firman has been a regulated member for approximately 18 years, recorded CPD between 2013 and 2021, and received two previous sanctions for CPD breaches. As such, it is reasonable to consider that Ms Firman is cognisant of CPD requirements.
- The evidence demonstrates that Ms Firman's actions were deliberate.
- I have no evidence that Ms Firman has engaged with the CPD process and the disciplinary investigation.

I have not been provided any mitigation on or behalf of Ms Firman.

Ms Firman has not responded to these allegations nor have they provided any submissions. Therefore, I do not have any explanation for the alleged breach.

Given this is the third sanction issued to Ms Firman for breaches of CPD requirements, I have determined that a caution, reprimand or fine on its own or combination therefore of would not adequately reflect the seriousness of this case. In particular, I do not consider that a further financial penalty would result in compliance with CPD requirements, as Ms Firman had already been issued a fixed penalty fine in 2020 and they repeated the same breach.

I do not consider that either a condition or undertaking be applied in this case as CPD is a mandatory requirement for RICS membership.

Given the serious and repetitive nature of this breach, I have determined that Ms Firman be subject to expulsion from membership. I am confident that an expulsion is the most appropriate and proportionate outcome to maintain public protection and meet the wider public interest. In reaching my decision, I carefully balanced the wider public interest against the interests of Ms Firman and their professional standing. I acknowledge that expulsion may have a significant impact on Ms Firman's livelihood. However, I consider that the wider public interest by far outweighs Ms Firman's interests. Finally, I have not been presented with any evidence that would justify deviating from the presumption in paragraph 22.1 of the Sanctions Policy, which stipulates that expulsion is likely where there is a third breach of Rule 6 of the Rules of Conduct for Members within a 10-year period of receipt of a caution for breach of the same rule(s).

ORDER MADE

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

That Ms Firman be expelled from RICS membership.

TAKING EFFECT OF ORDER

In accordance with Part VI of the Regulatory Tribunal Rules, this order will take effect 14 days from the 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 the findings and/or the Regulatory Sanction imposed by the Single Member are wrong.

COSTS

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

In the absence of any statement of means and/or documentary evidence of Ms Firman's financial circumstances, I have been unable to identify any reason(s) for reducing the costs. As such, I have concluded that the costs are fair and reasonable. **I therefore order that Ms Firman pay the costs of £350.**

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.