



ROYAL INSTITUTION OF CHARTERED SURVEYORS

Disciplinary Panel Hearing

Case of

**Neelam DHUPAR [1240660]
London**

On

Thursday 22 February 2024

At

Held remotely via Microsoft Teams

Panel

Gillian Seager (Lay Chair)

Dr. Angela Brown (Lay Member)

Mohamed Shehata (Registered Member)

Legal Adviser

Rebecca Vanstone

RICS Representative

Marie-Claire Frankie

Tribunal Executive

Adeel Qureshi

Introduction

1. Neelam Dhupar (“Ms Dhupar”) appears before the RICS Disciplinary Panel in connection with the following charges:-

1. *‘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 2022 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 and 1 February 2022.’*

Contrary to Rules of Conduct for Members Version 7 with effect from 2 March 2020

The Regulated Member is therefore liable to disciplinary action under byelaw 5.2.2(c)

2. *‘Between 1 January 2022 and 1 February 2023, Ms Dhupar failed to comply with RICS’ requirements in respect of Continuing Professional Development (CPD) in that she did not complete and record, 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 effective from 2 February 2022

The Regulated Member is therefore liable to disciplinary action under byelaw 5.2.2(c)

Response

2. Ms Dhupar admitted both of the charges in that she had failed to record the CPD for both years, and admitted she is liable to disciplinary action.

Summary

3. Ms Dhupar is a Chartered Member of RICS, qualifying as a professional member in October 2015.
4. The case has arisen following Ms Dhupar’s failure to record Continuing Professional Development (‘CPD’) for the years 2021 and 2022.

5. All Members of RICS are required to undertake a minimum of 20 hours of CPD per calendar year. Those hours must be recorded on the online portal and must be recorded by 31 January of the following year. For the 2021 year only, RICS allowed additional time for Members to record their CPD activity and extended the deadline from 31 January 2022 to 26 May 2022.
6. As of 26 May 2022 Ms Dhupar had failed to record any hours for the 2021 calendar year. As of 01 February 2023, Ms Dhupar had failed to record any hours for the 2022 calendar year.
7. These were alleged to be the third and fourth breaches of the CPD requirements, with Ms Dhupar receiving a caution for a breach in 2018 and a further caution being issued for a second breach in 2020. Ordinarily a fine would have been imposed for the second breach but RICS had determined not to issue fines in light of the effects of the pandemic.
8. Between 15 November 2021 and 07 June 2022, eight email reminders were sent to Ms Dhupar. Two hard copy letters were sent to her home address in February 2022 and April 2022. No response was received to any of this correspondence.
9. On 11 August 2022 Ms Dhupar was sent a 'letter before disciplinary action' explaining that she was in breach of Rule 6 and her case was to be referred to the Head of Regulation. She was asked to provide any documents she wished to be considered. No response was received.
10. An investigation commenced and a copy of the Investigation Report was sent to Ms Dhupar by email on 31 October 2022. On 09 November 2022 Ms Dhupar contacted the CPD team explaining that she had completed her CPD but had been unable to record it. She subsequently provided details of why she had failed to record the hours completed. Ms Dhupar submitted her CPD record showing that 20.5 hours of CPD had been completed for the 2021 calendar year.
11. On 12 December 2022 the Head of Regulation imposed a Regulatory Compliance Order subject to Ms Dhupar's agreement. However, the terms of the Order were not fully accepted.
12. Ms Dhupar's case was referred to a Single Member of the Regulatory Tribunal and a sanction was imposed on 11 May 2023.
13. Ms Dhupar has exercised her right to reject the findings / sanction imposed and did so via an email sent on 08 June 2023.
14. As the 2021 charge was being prepared for a hearing, it came to light that there was a further potential breach relating to CPD carried out in 2022. An Investigation Report for that further breach was sent to Ms Dhupar on 03 October 2023. Ms Dhupar attached her CPD record in a detailed response sent on 09 October 2023 which showed 20 hours of CPD completed between 17 January 2022 and 22 November 2022. However, this was not logged on to the portal until 05 May 2023. This was in breach of the requirements which dictated that the CPD

must be logged by 31 January 2023. Ms Dhupar refers to the personal difficulties she was encountering at the time as to the reason for this further breach in 2022.

Burden and standard of proof

15. The Panel received advice from the Legal Adviser as to the burden and standard of proof. The advice highlighted that RICS is required to prove the allegations to the civil standard; that is, it is more likely than not that any event material to those allegations occurred. This is a fresh hearing, and therefore there is no requirement for the Member to prove anything. The question of whether or not any facts admitted or found proved gave rise to liability to disciplinary action was a matter for the Panel's own judgment.

Preliminary matters

16. No preliminary matters were raised by the Parties. The Panel, of its own volition, raised the question of conducting part of the hearing in private, having regard to the information it had read in advance from Ms Dhupar. Before the Panel made a decision, it invited representations from the parties. Ms Frankie did not raise any objection to this course. Ms Dhupar invited the Panel to hear the parts of the hearing in private which related to sensitive issues of health and personal / family life.

17. The Panel received and accepted advice from the Legal Adviser. The Panel was advised that hearings were usually held in public for transparency and that there was a clear public interest in matters proceeding in this way. It was advised that in accordance with Rule 59 it was able to hold the hearing in private, in whole or in part, if there were exceptional circumstances that justified that course.

18.



19. The Panel noted that the information was highly relevant to Ms Dhupar's conduct at the relevant time and would need to be explored during the hearing.
20. In all of the circumstances, the Panel determined that there were exceptional circumstances which necessitated some parts of the hearing being held in private session. The Panel would only go into private session to hear about these sensitive matters and the remainder of the hearing would be held in public.

Evidence

21. The evidence before the Panel from RICS was unchallenged. It consisted of the statements of three witnesses who produced Ms Dhupar's CPD records, details of when the records were

logged onto the CPD system, and confirmation that reminders had been sent to her at the relevant time.

22. The Panel was also in receipt of a set of agreed facts. These facts included, but were not limited to, Ms Dhupar's admissions to the allegations, as well as confirmation that she had received reminders about the need to complete and log her CPD. Ms Dhupar also admitted that these allegations represented the third and fourth breaches of the CPD requirements.

23. In light of the admissions made, Ms Dhupar did not give evidence to the Panel at this stage.

Findings of fact

24. The Panel received submissions from the parties and advice from the Legal Adviser before retiring to consider its findings of fact.

25. The Panel was advised to bear in mind that, notwithstanding the admissions made, the matter of whether the facts were found proved was a matter for the Panel, taking into account all of the evidence available.

26. The Panel considered each of the allegations separately.

Allegation 1

27. The Panel noted the evidence from Carol Kerr and Claire Hoverd that Ms Dhupar had failed to record any hours of CPD for the calendar year 1 January 2021 – 31 December 2021, by 26 May 2022 as required. It took account of the CPD record produced, and the evidence that reminders had been sent to Ms Dhupar.

28. The Panel had in mind the legal advice that the admissions were not determinative of the facts and that it was required to carry out its own assessment of the evidence; however, in light of that set out above, it considered that the admissions simply lended further weight to the evidence produced by the RICS.

29. In all of the circumstances, and having regard to all of the available evidence, the Panel was satisfied that allegation 1 was proved, in relation to the failure to record the CPD. RICS accepted that the CPD had been completed and therefore this aspect of the allegation was not proved.

1. *'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 2022 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 and 1 February 2022.'*

Contrary to Rules of Conduct for Members Version 7 with effect from 2 March 2020

Ms Dhupar is therefore liable to disciplinary action under byelaw 5.2.2(c)

Found proved in relation to the failure to record.

Allegation 2

30. The Panel noted the evidence from Jamie Edwards and Claire Hoverd that, as of 01 February 2023, Ms Dhupar had failed to record any hours of CPD for the calendar year 1 January 2022 – 31 December 2022, as required. It took account of the CPD record produced, and the evidence that reminders had been sent to Ms Dhuper.
31. The Panel had in mind the legal advice that the admissions were not determinative of the facts and that it was required to carry out its own assessment of the evidence; however, in light of that set out above, it considered that the admissions simply lent further weight to the evidence produced by the RICS.
32. For the reasons outlined above, the Panel determined that allegation 2 was found proved in relation to the failure to record the CPD. RICS accepted that the CPD had been completed and therefore this aspect of the allegation was not proved.

2. *'Between 1 January 2022 and 1 February 2023, Ms Dhupar failed to comply with RICS' requirements in respect of Continuing Professional Development (CPD) in that she did not complete and record, 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 effective from 2 February 2022

The Regulated Member is therefore liable to disciplinary action under byelaw 5.2.2(c)

Found proved in relation to the failure to record.

Liability to disciplinary action

33. On the basis of the facts found proved, the Panel was required to determine whether or not Ms Dhupar was liable to disciplinary action. The Panel received submissions from Ms Frankie, on behalf of RICS, that the conduct alleged, if found proved, would significantly damage public confidence in the profession.
34. The Panel accepted the advice of the Legal Adviser that the decision is one for the Panel's independent judgement, drawing upon the facts found proved; that a finding of fact does not

automatically lead to liability to disciplinary action; and that account must be taken of the seriousness of the conduct and the context in which it occurred. It noted Ms Dhupar's admission of liability to disciplinary action but bore in mind that the question of liability was not something that could be admitted or denied, and was a question for the Panel exercising its own judgement.

35. The Panel noted that the breaches were a significant departure from what would ordinarily be expected of a professional. When considering Rule 6 of the Rules of Conduct for Members Version 7, and Rules 1 and 2 of the Rules of Conduct (Global), the Panel considered that these were serious breaches.
36. The Panel considered that the behaviour had the potential to significantly undermine public confidence in the profession and in the RICS. The CPD requirements were important; they are in place to ensure that Members of the profession stay up to date with their professional obligations, which in turn, serves to protect the public. The need to record was important to ensure that members can demonstrate they have addressed any development needs, and to ensure that that RICS can access these records to allow it to sample them for review.
37. Accordingly, the Panel found that the conduct found proved means Ms Dhupar is liable to disciplinary action.

Submissions by RICS Presenting Officer

38. Ms Frankie addressed the Panel on sanction. She reminded the Panel that whilst the allegations span two versions of the Sanctions Policy, the wording for each remained the same. Ms Frankie referred the Panel to section 22.1 which says that a third breach within 10 years of receipt of a caution, carries a presumption for expulsion and that this is the starting point.
39. Ms Frankie directed the Panel to paragraph 21 which says that in the absence of extenuating circumstances, 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, is likely to result in a Disciplinary Panel making a decision to expel a Member.
40. Ms Frankie confirmed that Ms Dhupar has completed and recorded her CPD for the 2023 calendar year.

Submissions by Ms Dhupar

41. Ms Dhupar gave evidence. She told the Panel that her RICS membership is 'key'; that she is passionate about her job and took pride in being a chartered surveyor.
42. Ms Dhupar explained that the failure to record did not happen in isolation, but was as a result of a combination of very difficult factors in her life commencing in 2018.

43. [REDACTED]
44. [REDACTED]
45. Ms Dhupar continued to work full-time throughout and she explained that she threw herself into her work and has recently been promoted. She explained that she is often involved in training graduates and mentors them through the APC process, which she is proud of. Ms Dhupar explained that she holds herself to high standards and provides a high level of service to her clients.
46. Ms Dhupar explained that, for her 2023 CPD she had implemented a process whereby she carried out a self-assessment of what further knowledge and skills she wanted to develop, before planning the CPD sessions, scheduling them, undertaking them, and then recording them by keeping the RICS website available on her desktop. She had successfully completed and recorded all of her CPD for 2023 in this way, and intended to do the same going forwards.
47. In response to Panel questions, Ms Dhupar acknowledged that it was vital to ensure that CPD is completed and recorded and said that it is at the heart of maintaining competence and compliance. She impressed on the Panel that she wanted to maintain her membership which was a condition of remaining in her current employment.

Decision as to sanction

48. The Panel accepted the legal advice and had regard to the two sanctions policies in place at the relevant times. It noted that there was no practical differences between the two policies and the references below are to version 9 of the policy, in force from 2 March 2020.
49. The Panel first considered the aggravating and mitigating factors present in this case. It considered that the matter was significantly aggravated by the fact that this is the third and fourth breach of the CPD requirements, particularly in light of the fact that the fourth breach occurred at the time when Ms Dhupar was being investigated for the third breach.
50. Regarding mitigating factors, the Panel noted that Ms Dhupar was under significant pressure at the time of the breaches, due to difficulties in her personal and family life, that she had accepted responsibility for the breaches by virtue of her admissions and that she had taken steps to avoid a further breach in the future. The Panel recognised that she had shown insight into her failings and displayed remorse. The Panel noted that there were no testimonials available from Ms Dhupar's employer, for example, but took account of her submission that she was doing well at work and had recently been promoted. The Panel also noted that, whilst not a mitigating factor in itself, the fact that the CPD had been completed and the failure was

in the recording only, meant that the breaches were at the lower end of seriousness when considering breaches of this nature (although this needed to be balanced with the fact that these breaches were repeated).

51. The Panel noted that, aside from the previous breaches of the CPD requirements, there was no other disciplinary history and this was the first time Ms Dhupar had been before a Disciplinary Panel.
52. The Panel considered the sanctions available in ascending order of seriousness. It first considered the imposition of a caution but had in mind that two cautions had been issued previously, seemingly without any deterrent effect. The Panel was of the view that a further caution would be inappropriate in light of the seriousness of a third and fourth breach.
53. It next considered a reprimand. It noted the reference in the sanctions policy that a reprimand may be appropriate where there was a risk of harm to the public. Whilst the Panel did not consider there were issues around public protection in light of the CPD having been completed, it did consider there was a very real risk of harm to the wider public interest. The Panel did not consider that a reprimand, on its own, would be a sufficient means of marking the seriousness of the breaches found proved.
54. The Panel considered undertakings but did not think these were appropriate or workable in the circumstances of this case. To impose undertakings would be to formally require Ms Dhupar to do something which she is already required to do under the Rules of Conduct. Undertakings would therefore be disproportionate and in any event, were insufficient to mark the seriousness of the conduct.
55. The Panel considered the imposition of a fine. It did not consider that this sanction, on its own, would adequately mark the seriousness of the breaches, in light of this being conduct which had been repeated on four occasions.
56. The Panel next considered conditions but took the view that conditions were neither workable nor appropriate, given the nature of the conduct found proved.
57. The Panel therefore moved to consider expulsion. It noted that the Sanctions Policy indicated that expulsion was the presumption in cases of this type. The Panel was particularly troubled by the repetitive nature of the breaches in relatively close succession, which it felt significantly increased the seriousness of the conduct. The Panel was mindful that standards of the profession must be upheld and that public confidence in the profession is severely undermined by professionals failing to meet their CPD requirements. However, it bore in mind that the CPD had been completed, although not recorded, and therefore any risk to the public was low. Ms Dhupar was a member of the profession who had remained up to date with her CPD, but had failed to record it. This, coupled with the very difficult personal circumstances the Panel had been told about, were two factors which were crucial in the Panel's decision making. The Panel therefore determined that the conduct fell short of expulsion, and that expulsion was not necessary to achieve the regulatory objectives.
58. In all of the circumstances, and given that conditions were not workable, the Panel concluded that the appropriate sanction to be imposed was a combination of a reprimand and a fine.

59. It recognised that the sanction – particularly the financial aspect of the sanction – would have a punitive effect. That is not the intention but in the Panel's view, this sanction was the most appropriate and proportionate way to mark the seriousness of the breaches identified. Taking the seriousness into account, the Panel determined that the correct level of fine was £2,000.00.

Publication and Costs

Publication

60. The Panel considered the policy on publication of decisions contained in the Sanctions Policy Supplement 3 – Publication of Regulatory Disciplinary Matters. It accepted the advice of the Legal Adviser. The Panel was unable to identify any reason to depart from the presumption that decisions will be published on the RICS website. It noted the submissions made by Ms Dhupar that publication may be detrimental to her reputation, but the Panel considered that publication of decisions was necessary in order to uphold the reputation of the profession. There was nothing exceptional in this case which meant there was a good reason not to publish. Any parts of the hearing held in private and redacted from the public determination will not be published, but the Panel took the view that it was necessary to publish the findings and the sanction imposed, in the usual manner.

Costs

61. RICS applied for its costs totalling £3,650.00 supported by a schedule of costs.

62. The costs figure represented a contribution towards the costs incurred by RICS in preparation for the hearing and the hearing itself. The Panel had no reason to doubt that the costs application was a fair and reasonable one to make. The Panel noted that the costs of the decision of the Single Member had been removed from the schedule and these were not claimed by the RICS.

63. The Panel then considered whether it was fair and reasonable for Ms Dhupar to pay those costs. It took account of her statement of means, detailing her income and outgoings, as well as the submissions she made to the Panel about her ability to bear the costs. However, the Panel had in mind that a Regulatory Compliance Order had been offered to Ms Dhupar but not accepted as she did not admit the allegation at that stage. The Panel took account of Ms Dhupar's submission that she had tried to correspond with RICS about the terms of the proposed Order but that this email remained in her outbox and so was not received. As a result of this and the previous denial of the allegation, the matter was referred for a Single Member decision. Whilst it was entirely Ms Dhupar's right to deny the allegation, she has since admitted the allegations before this Panel and the delay in doing so has contributed to the costs incurred overall. It noted that the RICS had not claimed for the costs of the Single Member considering

the case and so there could be no suggestion that Ms Dhupar was being punished for challenging the decision imposed.

64. The Panel was mindful that if it did not order the payment of costs, these would fall on the profession as a whole. It therefore concluded that it was appropriate for Ms Dhupar to pay the costs of bringing this case.

65. The Panel therefore ordered that Ms Dhupar pays costs in the sum of £3,650.00 to RICS within 28 days.

Appeal Period

66. Ms Dhupar may appeal to an Appeal Panel against this decision within 28 days of notification of this decision, in accordance with Rule 152 of the Regulatory Tribunal Rules.