

SINGLE MEMBER OF THE REGULATORY TRIBUNAL DECISION SHEET

RICS Regulatory Tribunal Rules 2022

Part VI, Regulatory Tribunal Single Member Decision

Regulated Member: Mr Andrew Wood

Single Member Decision of: Victoria James

Case Number: CON002303

Date of Decision: 24 March 2025

CHARGE

The charge against the Regulated Member is:

"Between 1 January 2023 and 1 February 2024, 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

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 provide:

'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 including:

'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. Rule 2 sets out a number of example behaviours that provide further guidance to the requirements of the rule. Example Behaviour 2.5 states:

'Members maintain and develop their knowledge and skills throughout their careers. They identify development needs, plan and undertake continuing professional development (CPD) activities to address them and are able to demonstrate they have done so. Firms encourage and support directors, partners and employees to maintain and develop their knowledge and skills, and check that they are complying with CPD requirements set by RICS'.

6. RICS' requirements in respect of CPD are set out in the document 'CPD Requirements and obligations' (the CPD requirements) and 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.'

7. 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 members

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 Fine within 28 days of the notification will lead to the fine being increased to £250. A third CPD breach within the 10-year period is likely to result in a referral to disciplinary proceedings.

MATERIALS CONSIDERED

8. In assessing this case I have considered a submitted bundle of 30 pages, which included:
 - RICS Rules, Guidance, Law and Procedure
 - An Investigation Report which includes:
 - a. Witness statement of Rohima Akhtar dated 18 February 2025 (Regulatory Support and CPD officer)
 - b. Witness statement of Kieron Cathcart dated 18 February 2025 (Regulator Support Team Manager)
 - General Correspondence with Member, Disclosure and Response
 - RICS Schedule of Costs
 - Head of Regulation decision

BACKGROUND

9. The Regulated Member joined the RICS on 16 May 2014. The charges being considered relate to the non-completion and recording of CPD for the CPD year 2023 which falls between 1 January 2023 to 31 December 2023 and is to be recorded by 31 January 2024.
10. I have considered this case in three distinct stages, moving to the next stage only if required to do so as a result of the findings of the previous stage. Those stages are:
 - a. Stage 1 – Finding of Fact
 - b. Stage 2 – Liability for Disciplinary Action
 - c. Stage 3 - Sanction

FINDINGS OF FACT

11. Having reviewed the evidence submitted by the RICS, I note that there were zero hours CPD recorded by the Regulated Member for the CPD year 2023. This is confirmed in the statement of Rohima Akhtar dated 18 February 2025.
12. In addition, the evidence confirms that the Regulated Member had not been granted any concessions for the 2023 CPD year which would have the effect of either waiving the requirement to complete CPD or to reduce the CPD hours required.
13. I therefore find that the Regulated Member failed to meet the CPD requirements for 2023 and find the factual allegations proved. This is based upon the documentary evidence provided by RICS. I note in addition that there has been no response received from the Regulated Member in respect of this matter.

LIABILITY FOR DISCIPLINARY ACTION

14. Having found that the facts of the charge are proved, I now move to consider the next stage which is to decide whether the breach is sufficiently serious as to render Regulated Member liable to disciplinary action under Bye-Law 5.2.2(c).
15. The RICS Rules of Conduct expressly mandate that members comply with the CPD requirements. This policy has been approved by the Standards and Regulation Board. The requirement of members of RICS to maintain their professional competence as demonstrated by the completion and recording of CPD is a core obligation of membership. RICS has chosen to instigate a system that requires members to complete and record 20 hours of CPD per year. This is required by Rules 1 and 2 of the Code of Conduct.
16. The purpose of this requirement is to:
 - Ensure consistent standards within the profession
 - Ensure that individuals maintain up to date knowledge in their area of expertise, and
 - Ensure that members demonstrate this by the completion of a record at RICS.

17. I am satisfied that RICS' requirements to complete and record CPD are entirely reasonable and in addition, an essential part of maintaining professional standards. 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. The Regulated Member has paid membership fees in 2023/2024 indicating his intention to remain a RICS member for that year.
18. The seriousness of a failure to adhere to Rule 1 and 2 of the Code of Conduct is emphasised by the fact that RICS' Sanction Policy for a third CPD breach clearly states that the matter should be referred to a Single Member or Disciplinary Panel with the presumption of expulsion.
19. Since becoming a member of RICS in 2014, the Regulated Member has previously complied with CPD requirements for CPD year 2014, 2019 and 2020 thus demonstrating his awareness of the CPD requirements. Previous breaches have been recorded in 2015, 2021 and 2022. For completion, I note between 2016 and 2018 Regulated Member's membership lapsed due to non-payment of fees.
20. Completion of CPD remains the responsibility of the member and is not contingent on receiving reminders from RICS. Notwithstanding this, reminders have been sent to prompt compliance as recorded in the witness statement of Rohima Akhtar. Reminders were sent to Regulated Member's email address. The witness statement of Kieron Cathcart confirms that between 15 November 2023 and 13 March 2024, 6 emails were sent to the Regulated Member. On 15 April 2024, a hard copy letter was posted to the Regulated Member. In addition, a member of the CPD team attempted to contact the Regulated Member by telephone on 24 May 2024. There has been no response received to any of this correspondence.
21. I am satisfied that the Regulated Member's failure to comply with CPD requirements for 2023 falls short of the expected standards. In addition, I note that this is the Regulated Member's fourth breach of the CPD requirements within 10 years.

22. When considering the above, I find that public confidence in the profession and RICS as a professional regulator would be undermined if a finding of liability to disciplinary action was not made. I therefore conclude that the Regulated Member is liable to disciplinary action under Bye-Law 5.2.2(c).

REGULATORY SANCTION

23. Having made a finding that the charge against the Regulated Member is proven and determined thereafter that the Regulated Member is liable to disciplinary action, the next stage is that I consider the appropriate level of sanction, if any is to be imposed.

24. The full range of sanctions available is set out at Rule 107 of the RICS Regulatory Tribunal Rules (Version 2 with effect from 2 February 2022) and must be read in conjunction with paragraphs 15.1, 21.1 and 22.1 of the RICS Sanctions Policy: Guidance to the Regulatory Tribunal Rules (Version 9 with effect from 2 February 2022) 'Sanctions Policy 2022'.

25. Paragraph 22.1 of the Sanctions Policy 2022 states that the policy for CPD breaches is as follows:

- First breach – Fixed Penalty (caution)
- Second breach within 10 years of receipt of a caution- Fixed Penalties (caution and a fine)
- Third breach within 10 years of receipt of a caution – referral to Single Member or Disciplinary Panel with presumption of expulsion.

26. I have considered the following relevant factors when considering the seriousness of the breach and possible sanction:

- The CPD Officer's evidence confirms that this is the Regulated Member's fourth breach of the requirement to complete and record their CPD online in accordance with the Rules of Conduct.
- The Regulated Member's Disciplinary history records breaches as follows:
 - 2015 – 16 hours recorded – Regulated Member receives a caution

- 2021 – zero hours recorded – Regulated Member receives a caution and a fine [Fine is paid]
- 2022 – zero hours recorded - Regulated Member receives a caution and a fine (see paragraph 27 for explanation) [No evidence that fine was paid]
- 2023 – Zero hours recorded – Regulated Member referred to Single Member
- Records indicate that the fine imposed in 2021 was paid indicating an awareness of previous sanctions.
- Records indicate that the fine imposed in 2022 was not paid
- The Regulated Member has paid his membership fees for 2023/2024. RICS submit that payment of fees suggests the Member had the intention to practise without complying with CPD requirements.
- From 15 November 2023 onwards, the Regulated Member received several reminders from RICS.

27. The Regulated Member had a third breach in 2022. Due to a data issue that year, this was incorrectly recorded as a second caution and fine. This third breach was not therefore referred for consideration by a Single Member or a Disciplinary Panel. The data issue has since been rectified.

28. I am mindful of the overriding principles that 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. The purpose of sanctions is not to be punitive, though that may be their effect.

29. Sanctions must be proportionate to the matters found proved and should be reached having taken into account any mitigating and/or aggravating features.

30. I find the following to be aggravating factors in this case:

- It is evident that the Regulated Member understands the requirements and process of recording CPD as the Regulated Member was compliant for the years 2014, 2019 and 2020,
- The Regulated Member was sent several reminders by RICS,

- Having received previous sanctions for non-compliance of CPD, the Regulated Member would have been aware of their obligations and the consequences for non-compliance,
- The Regulated Member has failed to offer any reasonable explanation for failing to comply with RICS' CPD requirements or respond to the Investigation Report,
- This is the Regulated Member's fourth breach indicating poor insight as to the importance of completing CPD.

31. In mitigation, I note that a review of the Regulated Member's disciplinary record has confirmed that no other sanctions (not related to CPD) have been imposed against the Regulated Member.

32. In considering what sanction to impose, I have considered Rule 22.1 of the RICS' Sanction Policy which clearly states that a third CPD breach should be referred to a Single Member or a Disciplinary Panel with the presumption of expulsion. I am aware that this presumption can be displaced if mitigating circumstances permit.

33. In order to determine the appropriate sanction, I started by considering the lowest sanction, including imposing no sanction at all, and only move to the next level of sanction if I decide that that the lesser sanction is inappropriate, or otherwise fails to meet the public interest.

34. I find that the matter is too serious for no sanction to be imposed. There have been repeated failures by this Regulated Member to complete and record the required amount of CPD and in the absence of any mitigating or exceptional circumstances, it would not be appropriate or proportionate to impose no sanction.

35. I find a caution would not reflect the seriousness of the breach noting that the Regulated Member has received 3 previous cautions which have not resulted in compliance. I have also considered the imposition of a reprimand but have concluded that a reprimand would not properly reflect the seriousness of the repeated failure to comply with CPD requirements.

36. I then considered whether to impose an undertaking. I was alert to the mandatory nature of the CPD requirements and their purpose to ensure that the skills and knowledge of RICS' members is kept up to date to ensure public protection. Completion of CPD is a condition of membership which the Regulated Member has repeatedly failed to do. Given that the Regulated Member should have been completing and recording CPD in any event, I conclude that it would not be appropriate or proportionate to impose an undertaking and find in addition, that imposing such a sanction would undermine public trust and confidence in the regulatory process.
37. I next considered whether to impose a fine and was mindful that a fine was previously imposed on the Regulated Member for failing to comply with the CPD requirements in 2021 and 2022. One fine was paid whereas the later remains outstanding. I therefore conclude that a further financial penalty would serve no useful purpose as previous fines have had no deterrent effect on the Regulated Member and could undermine the need to uphold the standards expected of all members and the deterrent effect on other members of the profession.
38. I have considered whether Conditions on the Regulated Member's continued membership are appropriate and have concluded that they are not. Any sanction of conditions would require the Regulated Member to demonstrate a willingness to engage with the regulatory process and with RICS as their regulator. As the Regulated Member has repeatedly failed to comply with the CPD requirements in the past and has failed to respond to written reminders to record his CPD or engage with this investigation, I could not be satisfied that he would comply with conditions.
39. In the absence of any mitigation, insight or remorse from the Regulated Member, I have concluded that the non-compliance with the CPD requirements, which now constitutes the fourth non-compliance of CPD requirements in the last 10 years, clearly demonstrates a disregard for the purpose of regulation and a lack of professional responsibility for the maintenance of professional standards and public protection.

40. I am aware that expulsion as a sanction should be a last resort, to be used in the most serious of cases and where there are no other means of protecting the public and the wider public interest. In the circumstances, I find no reason to depart from the presumption of expulsion and consider it to be a proportionate and appropriate sanction. In reaching this decision I have carefully weighed the wider public interest against the interests of the Regulated Member, including the impact expulsion may have on the Regulated Member. I have concluded that in this case, the individual's interests are outweighed by the significant public interest concerns that non-compliance with CPD requirements raises.

ORDER MADE

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

Mr Andrew Wood shall be expelled from membership of RICS.

TAKING EFFECT OF ORDER

42. 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

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

Mr Wood shall pay costs in the amount of £350

PUBLICATION

44. 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.