

SINGLE MEMBER OF THE REGULATORY TRIBUNAL DECISION SHEET

RICS Regulatory Tribunal Rules 2022

Part VI, Regulatory Tribunal Single Member Decision

Regulated Member: Florence Dourdet Franzoni

Single Member Decision of: Deborah Fajoye

Case Number: CON002100

Date of Decision: 21 February 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 2022.

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 Rules 1 and 2 of the Rules of Conduct 2022.

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
- Rules of Conduct 2022
- RICS Bye-law 5.2.2

- RICS CPD Requirements and Obligations
- RICS CPD FAQs
- Part VI RICS Regulatory Tribunal Rules version 2
- RICS Sanctions Policy: Guidance to RICS Regulatory Tribunal Rules version 9
- RICS Single Member Decisions Guide 2022

BACKGROUND

RICS requirements in respect of CPD are set out in the RICS document 'CPD Requirements and Obligations'. They include requirements that *"all members (AssocRICS, MRICS and FRICS) must record their CPD online"*.

The key requirements are:

- All members (AssocRICS, MRICS and FRICS) 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.
- 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 every year

Florence Dourdet Franzoni ("Ms Franzoni") is a member of RICS ("MRICS") and was first admitted on 21 December 2007 and they practice in the AEMEA region.

It is noted that Ms Franzoni recorded CPD in 2013, 2014, 2015, 2016, 2017, 2019 and 2020 (albeit it was recorded late in 2018), which demonstrates that they are aware of CPD requirements and capable of adherence.

However, 0 hours of CPD have been recorded online for 2023 and Ms Franzoni does not have any concessions on record for that year. As such, they were required to complete and record CPD.

The evidence demonstrates that this is Ms Franzoni's fourth breach of CPD requirements (2020, 2021, 2022 and 2023) contrary to Rule 6 of the Rules of Conduct for Members (versions 6 and 7) and currently set out as a core obligation in the Rules of Conduct 2022.

FINDINGS OF FACT

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

- I have reviewed statements and records provided by RICS. The statements clearly set out Ms Franzoni's CPD activities from 2013. The statements show that Ms Franzoni recorded their CPD activities online in 2013, 2014, 2015, 2016, 2017, 2019 and 2020, albeit it is noted that they submitted their activities for 2018 late. Notwithstanding, these activities demonstrate that they're cognisant of their obligations in regard to completing and recording their CPD activities online.
- The records show that Ms Franzoni recorded 0 hours CPD in 2020 and 2021. As such, they received a caution for the first breach, which was issued in 2021 and a fixed penalty for the second CPD breach issued in 2022.

- Ms Franzoni had a third CPD breach in 2022. Unfortunately, this breach was not referred for consideration by a Single Member of the Disciplinary Tribunal due to a technical issue. Consequently, the third breach was incorrectly recorded as a second breach, and Ms Franzoni was issued a caution and fine.
- RICS confirm that Ms Franzoni has settled the fixed penalty fines issued for CPD non-compliance in 2021 and 2022. Also, the records show that Ms Franzoni has paid their membership fees in 2023/2024, which indicates their intention to continue practising.
- Ms Franzoni recorded online 0 hours of CPD for 2023 and the evidence demonstrates they had no relevant CPD exemption and/or concession for the relevant year. As such, they were required to complete and record a minimum of 20 hours CPD.
- This is Ms Franzoni's fourth breach of CPD requirements within a 10-year period.
- Having been a member since 2007, and been subject to three previous CPD related sanctions, I am satisfied that Ms Franzoni would have been cognisant of their obligations in respect of CPD.
- It is the responsibility of all regulated members to ensure that they update RICS of any changes to their circumstances and contact details. For example, if they travel and may not have access to written communications or if they move address or change their email.
- The records indicate that Ms Franzoni 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 2023 CPD. The written communications were sent to Ms Franzoni's registered email address and the last letter was sent by post. RICS have provided a notification showing that the "CPD letter for disciplinary action dated 15 April 2024 returned due to illegible address".
- The evidence shows that at all material times, Ms Franzoni's registered email address had not been updated. Although the hardcopy letter sent on 15 April 2024 appears to have not been delivered, RICS had sent multiple reminders by email previously and there is no evidence that these emails were returned as undelivered. As such, I am satisfied that RICS effectively reminded Ms Franzoni about the 2023 CPD and they had ample opportunity to submit their CPD activities online by the relevant due date. Notwithstanding, as a regulated member, it is Ms Franzoni's responsibility to ensure that they keep abreast and adhere to RICS rules including CPD requirements.
- On 21 January 2025, RICS sent a 'CPD Disciplinary Proceedings' letter to Ms Franzoni, including the CPD disciplinary bundle, listing questionnaire, statement of means form, and schedule of costs. Ms Franzoni has not responded to this letter nor have they provided any submissions providing an explanation for this alleged breach.
- In the absence of any submissions from Ms Franzoni, I have no evidence of mitigation or insight.

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 within their area of expertise and ultimately ensure public protection.

Ms Franzoni failed to record the minimum required hours of CPD for three consecutive years. They recorded online 0 hours of CPD for 2023 and as such this constitutes their fourth breach of CPD requirements in accordance with Rules 1 and 2 of the Rules of Conduct 2022.

RICS Sanctions Policy, February 2022 (version 9) suggests that even one sole breach of CPD requirements is sufficient to give rise to a liability to disciplinary action.

In light of the above, I have determined that Ms Franzoni's failure to comply with those requirements is sufficiently serious to give rise to a liability to disciplinary action.

REGULATORY SANCTION

This is Ms Franzoni's fourth breach of the RICS requirements for CPD. 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 RICS 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 Franzoni's fourth CPD breach within a 10-year period of receipt of a caution. As such, the alleged breach is not an isolated failure.
- RICS have confirmed that Ms Franzoni has settled the fines issued for CPD non-compliance in 2021 and 2022. Also, they have paid their membership fees up until 2024, which would suggest that they intend to continue practising without complying with CPD requirements.
- Ms Franzoni has been a regulated member since 2007, recorded CPD between 2013 and 2020 (none recorded after this time), and they have received three previous sanctions for CPD breaches (albeit the third breach was recorded as a second breach due to a technical issue). As such, it is reasonable to consider that Ms Franzoni is cognisant of CPD requirements.
- The evidence demonstrates that Ms Franzoni's actions were deliberate and a flagrant disregard for RICS regulatory rules and CPD requirements. In particular, Ms Franzoni has failed to record CPD for three consecutive years.
- I have no evidence that Ms Franzoni has engaged with the CPD process since 2020.

Ms Franzoni 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 fourth sanction issued to Ms Franzoni 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 Franzoni had already been issued a fixed penalty fine in 2022 and 2023 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.

I recognise that expulsion is the ultimate sanction and should be reserved for those categories of cases where there is no other means of protecting the public or the wider public interest. Given the serious and repetitive nature of this breach, I have determined that Ms Franzoni be subject to expulsion from membership. I consider 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 Franzoni and their professional standing. I acknowledge that expulsion may have a significant impact on Ms Franzoni's livelihood. However, I consider that the wider public interest by far outweighs Ms Franzoni'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 2 of the Rules of Conduct 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 Franzoni 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 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

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 Franzoni's financial or personal circumstances, I have been unable to identify any reason for reducing the costs. As such, I have concluded that the costs are fair and reasonable.

I therefore order that Ms Franzoni 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.