SINGLE MEMBER OF REGULATORY TRIBUNAL
DECISION SHEET

RICS Regulatory Tribunal Rules 2020

Part VI, Regulatory Tribunal Single Member Decision

Regulated Member:	Pierre-Alexandre Humblot (6513950)
Single Member Decision of:	Paul Watkinson, FRICS
Case Number:	CON001617
Date of Decision:	26th February 2023

1.0 CHARGE:

1.1 The formal charge against the Regulated Member is:

"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"

2.0 ALLEGED RULE/S BREACH

2,1 The charges proposed detailed above are contrary to Rule 6 of the Rules of Conduct for Members 2007, Version 6. The Regulated Member is therefore liable to disciplinary action under Bye-Law 5.2.2(c).

2.2 Rule 6 details that Members shall comply with RICS requirements in respect of continuing professional development.

3.0 MATERIALS CONSIDERED

3.1 I have been provided with a 67-page document bundle, published on 20th February 2023, that I have reviewed in detail as part of my deliberations. This incorporates: details as to the RICS Rules; Investigations Report (Part 1 and 2); Correspondence with Member; and finally the Head of Regulation Recommendation.

4.0 BACKGROUND

4.1 RICS Members are required to complete 20 hours of CPD activity by 31 December of each calendar year, and record, or cause to be recorded.

4.2 Rule 6 of the Rules of Conduct for Members 2007 states: Members shall comply with RICS' requirements in respect of continuing professional development.

4.3 The requirements of the Rule are as follows:

- All RICS 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.
- All 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.
- All members must record their CPD activity online by 31 January.

4.4 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 a Fixed Penalty within 28 days of notification will lead to the fine being increased to £250. A third CPD breach (within 10 years of receipt of caution) is likely to result in a referral to a Disciplinary Panel, which may result in expulsion from membership and likelihood of costs being awarded against the member.

4.5 The RICS acknowledged that in certain circumstances it may be difficult to meet the minimum CPD requirements. However, the obligation remains on the Regulated Member to maintain records and make direct contact with the RICS.

5.0 FINDINGS OF FACT

5.1 I have been provided with a hearing bundle of 67 pages, which include a CPD printout from the RICS' online system held for the Regulated Member and witness statements from a Regulations Support Team Manager, regarding CPD compliance communication.

5.2 I accept that if the printout from the Regulated Members professional record does not contain an entry for a particular year that indicates that no CPD was recorded for that year. There was no entry on the Regulated Member's CPD printout for the year 2021. I noted that there is no evidence that the Regulated Member has applied for any RICS Exemption or Concession, which would have allowed him to avoid that requirement.

5.3 Accordingly, I find the factual allegations proved, based on the documentary evidence provided.

6.0 LIABILITY FOR DISCIPLINARY ACTION

6.1 I am satisfied that the RICS requirements to complete and record CPD is reasonable and that the Regulated Member's failure to comply with these requirements is sufficiently serious to give rise to a liability for disciplinary action. In reaching this conclusion.

6.2 I take into account the fact that the CPD policy has been approved by the Regulatory Board and is an expressly stated RICS rule. All Regulated Members expressly agree to such requirements as a condition of Membership of the Institution. 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. 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. I am satisfied that the Regulated Member in this case was given every opportunity to comply with the CPD requirements and had been provided with appropriate reminders by way of emails to the Regulated Member's nominated contact address.

6.3 Accordingly, I am satisfied that the Regulated Member is liable to disciplinary action.

7.0 REGULATORY SANCTION

7.1 I note that in addition to 2021 there were no CPD hours recorded by the Regulated Member in 2015, 2016 and 2018. I note that CPD hours were recorded by the Regulated Member, of which there were: 38 hours in 2017 ; 22 hours in 2019; and 23 hours in 2020.

7.2 I take in to account the RICS Sanctions Policy and the Regulated Member's disciplinary history, which is as follows:

- 2015: a Fixed Penalty Caution
- 2016: a Fixed Penalty Caution and Fine

- 2018: while there was a breach of the CPD requirements this was subsequently overturned because the Member completed their CPD requirements before a decision was made the Head of Regulation.

7.3 The bundle documents reveal that the Regulated Member has paid their membership fees for 2021 although has not completed payment of the fixed penalty levied in respect of the fine issued in 2017 (for non-compliance in 2016).

7.4 In the bundle, RICS confirms that 8 email reminders were sent, in English, to the Regulated Member's preferred email address. Delivered at regular intervals from 15th November 2021 to 7th June 2022 all contained the following paragraphs:

"*All practicing RICS members are required to complete at least 20 hours of CPD (including 10 hours of formal CPD) by 31 December 2021 and recorded it online by 31 January 2022*".

"*Our records show that within a ten-year period, you have failed to comply with our CPD requirement on two or more previous occasions. 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*".

7.5 I am satisfied that the reminders were correctly addressed to the preferred address then held on file for the Regulated Member.

7.6 RICS contacted the member by email on 23rd November, in relation to this breach and disciplinary proceedings. The Regulated Member acknowledged receipt of such documents by way of a return e-mail dated 8th December 2022. No subsequent communication from the Regulated Member to the RICS has been identified in the bundle.

7.7 RICS is a professional membership organisation and sets standards for its Members as a condition of membership of the Institution. The recording of CPD provides a mechanism for the RICS to ensure compliance and in turn give protection to the public. Compliance is not optional and this is clear in the Rule of

Conduct. It is not difficult to record CPD online, there is adequate guidance and flexibility as to the form and content of such CPD and the CPD requirements are not dependent on the RICS sending reminders to its Members.

7.8 I bear in mind that the purpose of sanctions Is not to be punitive, although it may have that 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.

7.9 I have had regard to the following mitigating factors in this case:

- Following the Regulated Member's first breaches in 2015 and 2016 over 38 hours of CPD were recorded in 2017 with subsequently 22 and 23 of CPD hours recorded formally in 2019 and 2020 respectively.
- Additionally, I am minded that during 2021 this was a period that saw significant personal and business disruption across many geographies due to the impact of the Covid pandemic.

7.10 I considered that the following aggravating factors were present in this case:

- The Regulated Member has been a member of the RICS since admission on 15th December 1994 and clearly understands the process of recording CPD, as hours were successfully recorded most recently in 2017, 2019 and 2020.
- The member has previously breached this rule on two consecutive occasions in 2015 and 2016. For the first he received sanctions of a Caution and then a Caution and Fine. Accordingly, the Regulated Member cannot be unaware of his obligation as a member to comply with the CPD rules.
- Additionally, from reviewing the bundle I am aware that in 2018 the Regulated Member failed to submit and record any CPD hours on the RICS system. While this was effectively the 3rd breach of CPD rules it was subsequently overturned as CPD was submitted prior to a decision by the Head of Regulation.

- Other than the acknowledgement of receipt of documents regarding the Disciplinary Proceedings from the Regulated Member on 8th December 2022 there has been no engagement from the Regulated Member.
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7.11 I first considered whether to impose any sanction. I concluded that the repeated failure to record CPD was serious and, in the absence of exceptional circumstances, imposing no sanction would neither be proportionate or appropriate. In reaching this conclusion I note that the Regulated Member had been sent numerous reminders by RICS. However, whether the Regulated Member received these reminders or not, it remained their responsibility to ensure that compliance with RICS CPD Obligations.

7.12 I went on to consider whether to impose a caution. I concluded that a caution would not adequately reflect the seriousness of the case, recognising the cumulative pattern of non-compliance and the fact that a caution had already been imposed for previous breaches. I also considered the imposition of a reprimand but concluded that similarly this did not reflect the seriousness of the Regulated Member's repeated failure to comply with the requirements to complete, record or cause to be recorded CPD on the RICS portal.

7.13 In considering whether to impose an undertaking I took into account the mandatory nature of CPD requirements. I noted that the CPD requirements are designed to ensure that the skills and knowledge of RICS Members is kept up to date and ultimately to ensure public protection. I concluded that it would not be appropriate or proportionate, in the absence of exceptional circumstances, to impose an undertaking given that the Regulated Member should have been completing and recording CPD online in any event. I concluded that imposing such a sanction would undermine public trust and confidence in the regulatory process.

7.14 I then considered whether to impose a fine. I was mindful that a fine was imposed on the Regulated Member for failing to record his CPD hours for the years 2015 and 2016. Payment of the fine with regard to the 2016 breach has not been settled. I concluded that, in these circumstances, to impose a further financial penalty would serve no useful purpose, as it had not resulted in compliance with the CPD requirements on two further occasions to date. Instead, a fine would further undermine the need to uphold the standards expected of all members and the deterrent effect on other members of the profession.

7.15 I went on to consider conditions. I took the view that imposing a condition for non-compliance of the CPD requirements is appropriate in certain circumstances. However, to impose such a sanction I would need to be satisfied that the Regulated Member has demonstrated a willingness to engage with the regulatory process and a willingness to comply with any condition imposed. As the Regulated Member has repeatedly failed to comply with the CPD requirements in the past and has failed to respond to the written reminder to record his CPD, I could not be satisfied that he would comply with conditions. Therefore, I concluded that it would not be possible to formulate conditions which would be realistic or achievable. Furthermore, in the absence of any mitigation, remorse or insight I concluded that the Regulated Member’s non-compliance with CPD requirements demonstrated a blatant disregard for the purpose of regulation and consequently undermines public trust and confidence and is fundamentally incompatible with continued membership.

7.16 Having determined that conditions would not meet the wider public interest I determined that the Regulated Member should be expelled from RICS membership. I recognise 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 decided that The Regulated Member’s case falls into this category as he has repeatedly failed to comply with the fundamental requirement to record CPD and has failed to demonstrate that he has any intention of complying in the future. This is the Regulated Member’s third breach over a period of 7 years. I am satisfied that, in these circumstances, any lesser sanction would undermine public trust and confidence. In reaching this conclusion I have carefully balanced the wider public interest against the Regulated Member’s interest, and his professional standing. I have had regard to the impact expulsion may have on the Regulated Member but concluded that his interests were significantly outweighed by my duty to give priority to the significant public interest concerns raised by this case.

7.17 I am also mindful that paragraph 21.1(j) of the Sanctions Policy states that expulsion is likely where there is a third breach of Rule 6 and Rules of Conduct for members within 10 years of a receipt of a caution for breach of the same rule.

8.0 ORDER MADE

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

> **That the Regulated Member (Pierre-Alexandre Humblot – 6513950) shall be expelled from membership of the RICS.**

9.0 TAKING EFFECT OF ORDER

9.1 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.

10.0 COSTS

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

> **The Regulated Member (Pierre-Alexandre Humblot – 6513950) will pay costs in the amount of £350 as detailed in the Schedule of Costs appended to the Disciplinary Proceedings letter of 22nd November 2022**.

11.0 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.