

Registration Panel Hearing

Case of

Mr Andrew Gower

Crandall, Hampshire, GU10

On

Wednesday 11 January 2017

At

RICS, Parliament Square, London

Chairman

John Anderson (Lay Chair)

Members

Gillian Seager (Lay Member)

Christopher Pittman (Surveyor Member)

Legal Assessor

Peter Steel

RICS Representative

Annabel Joester

Background

1. This is an application by Andrew Gower for re-admission to membership of RICS. Mr Gower was a Member of RICS from 25 February 1999 until 12 September 2012 when he was expelled from membership.
2. On 11 January 2012, a Disciplinary Panel heard the case against Mr Gower. The charge against him was:

"You have failed to plan, undertake, record and evaluate appropriate continuing professional development, or provide evidence to RICS in response to the request by RICS on 27 January 2011, contrary to Rule 6 of the Rules of Conduct for Members 2007

You failed to cooperate fully with RICS staff in that you have not responded to written correspondence sent to you by RICS between 27 January and 27 July 2011, contrary to Rule 9 of the Rules of Conduct 2007"

3. The Disciplinary Panel found the charge against Mr Gower proved and imposed a Reprimand, Fine and Conditions. They also ordered payment of RICS' costs. Mr Gower did not attend the hearing.
4. The Conditions imposed at the January hearing were:

"Mr Gower shall:

a) Starting 1 February 2012, undertake at least 30 hours of CPD per year for the next three years, 2012/13, 2013/14, 2014/15;

b) in the first year (2012/13) undertake 20 of those hours within the first six months (by 1 August 2012). Those 20 hours must not include CPD falling into the category of personal and informal learning, as set out in the CPD Helpsheet September 2010;

c) in relation to the above, submit evidence to RICS of CPD activity in compliance with that condition ("condition b") by 1 September 2012.

d) by 1 March in the years 2012, 2013 and 2014 submit to RICS a personal development plan relating to capital CPD for the coming year;

e) submit annually to RICS (by 1 March of each year 2013, 2014, 2015) evidence that he has successfully completed his CPD for the past year.

Any breach of the above conditions shall lead to immediate expulsion."

5. The result of the Disciplinary Panel hearing was notified to Mr Gower on 12 January 2012. RICS did not receive confirmation from Mr Gower of his compliance with Condition (c) by 1 September 2012. Accordingly, he was expelled from membership on 12 September 2012. This decision was notified to Mr Gower on 13 September 2012.

6. Mr Gower made an application for re-admission to membership of RICS on 9 May 2016.

Procedure

7. The procedure for deciding whether to accept an application of this nature is governed by the "Rules setting out the procedure for re-admission to membership following disciplinary expulsion" dated 1 June 2009.
8. The Panel was required to have regard to Rule 2 as the supporting material and criteria for making an application.
9. In addition, the Panel was required to consider the provisions of Rule 5, that is, whether they were satisfied that the applicant:
 - a. Has complied with all relevant eligibility requirements of Bye-Law 2.3 and Regulation 2.2; and
 - b. That his re-admission was in the best interests of RICS.
10. Rule 5 goes on to provide that in determining whether an applicant is a fit and proper person for re-admission, the Panel may consider any or all of the matters listed within that Rule and any other matters it considers relevant in the particular circumstances of the application. The only feature relevant to this case was sub rule (f), being "steps taken by the applicant to address the issues for which he was expelled."

Submissions

11. Mr Gower explained the circumstances leading to his expulsion from membership in 2012, which he told the Panel were as set out in his letter of 9 May 2016 to RICS. He fully accepted the previous Panel's findings and the result. At the time of the previous hearing, he had been experiencing a particularly difficult period, both in terms of his personal and work life, which he explained to the Panel in further detail. He was confident that the same circumstances would not reoccur and even if they did, he would not fail to deal with them as previously.
12. Mr Gower said that he had trained as a building surveyor and continued to operate as one, even though he was no longer a chartered building surveyor and had not held himself out as such. He had undertaken CPD up to date and had maintained his professional indemnity insurance on the same terms.
13. In answer to questions from the Panel, Mr Gower indicated his determination to maintain his CPD record if re-admitted. He said that he saw that he owed it to the public to be able to advise correctly on new developments in the field and in that way, he understood the connection between CPD and the fit and proper person test the Panel had to apply in considering his application.
14. Mr Gower said that he hoped his re-admission would be in the best interests of RICS by virtue of his concern to maintain his professional reputation and the good quality of his work for

clients. If problems reoccurred he would ask for help in the future and would also communicate better with RICS. Finally, he told the Panel that he had wanted to be a building surveyor since being a young child and had been proud to describe himself as a Chartered Building Surveyor. He wanted very much to come back into the profession and do so again.

DETERMINATION

15. The Panel read the documents provided to it and listened carefully to the submissions of Mr Gower and Ms Joester on behalf of RICS. It accepted the advice of the Legal Assessor.
16. The Panel was concerned to hear of the circumstances that led to Mr Gower's expulsion in 2012. However the Panel acknowledged Mr Gower's explanation of the personal and professional reasons that had led to this outcome, though he rightly accepted that they did not provide an adequate excuse.
17. Having heard from Mr Gower today, the Panel was satisfied that he had made real efforts to address the problems with CPD that had led to his expulsion. He had also developed the appropriate insight into the reasons why he had been subject to disciplinary action. In response to questions from the Panel, he demonstrated that he now understood the benefits and obligations of professional regulation and the importance of CPD to all RICS members.
18. Mr Gower had provided evidence that he had completed a sufficient level of CPD for each year since his expulsion, including 21 hours for 2016.
19. The Panel was satisfied in the light of the evidence it had heard today that Mr Gower was a "fit and proper person" for the purposes of re-admission and that given the explanation he had offered, and his efforts to remedy his defaults, it would be disproportionate to refuse re-admission. In all the circumstances it was appropriate and in the best interests of RICS to grant him re-admission to membership.
20. The Panel was mindful of the need to protect the public interest but noted Mr Gower's current work offered him ready access to appropriate training and accepted his expressed understanding of the importance of complying with the professional rules and cooperating with RICS in future.

Panel's decisions

21. In all the circumstances, the Panel took the view that, on balance, it was in the best interests of RICS to accept Mr Gower's application for re-admission to membership, on condition that he fulfil his full CPD requirement for 2017 by the required date.
22. The Panel decided to allow Mr Gower into membership in the same class as previously held by him.

Determination on Publication

23. The Panel directs publication in accordance with Supplement 3 to the Sanctions policy (Version 6).