

**ROYAL INSTITUTION OF CHARTERED SURVEYORS  
APPEAL PANEL HEARING**

**Case of**

**Mr Noel Reid [0062034]  
London, W9**

**On**

Wednesday 27 July 2016

**At**

RICS, Parliament Square, London

**Chairman**

Catherine Audcent (Lay Chairman)

**Members**

Joshua Askew (Member)

Carolyn Tetlow (Lay Member)

**Legal Assessor**

Peter Steel

**RICS Representative**

Annabel Joester

**Background**

1. Mr Reid was referred to a Disciplinary Panel on 21 March 2016 in respect of a charge that:-

"You have failed to comply with RICS' requirements in respect of Continuing Professional Development (CPD) in that you have not recorded your CPD activity for 2015 online **contrary to Rule 6 of the Rules for Conduct for Members 2007 version 6**".

2. A Disciplinary Panel heard the case on 26 April 2016 by way of a telephone conference in accordance with the process set out in Rules 4(a) and 43(a) of the Disciplinary, Registration and Appeal Panel Rules 2009 ("the Rules").

3. The Disciplinary Panel recorded its findings of fact as follows:

"6. The online CPD record was attached to the charge. It is a matter of record. The record of the Relevant Person for the calendar year 2015 does not show 20 hours CPD recorded by the extended grace period ending on 31 January 2016. There are no submissions from the Relevant Person that the record is inaccurate.

7. Accordingly the Panel finds the allegation proved."

4. In the light of its findings the Disciplinary Panel decided to expel Mr Reid from membership of RICS. It commented as follows:

"10. The Relevant Person offered no explanation for the failure to record 20 hours CPD online during 2015. While the deadline for recording CPD online was 31 December 2015, RICS have brought no allegation where CPD was recorded online by 31 January 2016. The Relevant Person was outside even the additional period of grace afforded by RICS having only entered records for 2015 on 28 March 2016, which is after the Notice of this Hearing had been sent.

11. This is the third successive year the Relevant Person has failed to comply with the obligation to record 20 hours of CPD online in a calendar year. RICS is a professional membership organisation and sets standards for its members as a condition of membership. It is not difficult to record CPD online. There is no excuse for failing to comply with such a rule. Compliance is not optional.

12. Those who do not comply with the rules of RICS cannot expect to remain members of it..."

5. Mr Reid appealed the decision of the Panel by way of an application notice dated 19 May 2016. His grounds were that:

"...although completed late, I did complete my CPD diary for 2015. I wish to bring to the Appeal Panel's attention that I have been keeping my 2016 CPD diary up to date and commit to the Panel that I shall complete my CPD diary in full accordance with the RICS regulations for 2016 and all future years."

## DETERMINATION

6. The Appeal Panel has considered the evidence before it today, consisting of:

- The bundle of documents prepared by the RICS;
- A document presented by Mr Reid setting out further details of his career history; and
- The evidence given by Mr Reid on his own behalf.

It has carefully considered the submissions made by Mr Reid, which expanded on his grounds of appeal, and by Ms Joester on behalf of the RICS. It has accepted the advice of the legal assessor. In reaching its decision, the Appeal Panel notes that under Rule 66 of the Rules, the burden is on Mr Reid to satisfy the Panel that the order of the Disciplinary Panel was wrong.

### Panel's Decision

7. In his evidence to the Appeal Panel today, Mr Reid indicated that he had endeavoured to uphold the values of RICS throughout his lengthy career, which included maintaining his RICS diary and mentoring and training new members of the profession. He accepted that his failure to record his CPD activity for 2015 was entirely his fault. His father had died in October 2015 and that had inevitably had an impact on him.

8. He had similarly failed to record his CPD activity in 2013 and 2014. He candidly accepted that he did not have any "straight answer" as to why he had failed to do so, other than these were the first two years of the new CPD system and he had not appreciated the importance of the rules. He apologised to the Panel and stressed that if his appeal was successful, he would diligently comply with the CPD requirements for so long as he remained a member of the RICS.

9. As to his current circumstances, Mr Reid was the only RICS member in his firm and loss of his membership would not only prevent him from working, but would also have an effect on the employment of others in the firm. He submitted that the decision to expel him from membership of the RICS was an extremely severe ruling and he asked the Panel to consider substituting a less severe penalty in accordance with Rule 69.b. of the Rules.

10. As noted by the Disciplinary Panel that heard Mr Reid's case, compliance with the CPD requirements of RICS is not optional. Nor is it hard to record CPD activity and there is no excuse for failing to comply with such a rule. The Appeal Panel was concerned to note that Mr Reid had consistently failed to record his CPD, despite repeated reminders from RICS and previous disciplinary action. In the Panel's view, Mr Reid should have had no doubt of the importance of completing his CPD record for 2015 on time. Despite this, it was not until after he had received notice of the Disciplinary Panel hearing that he finally entered the details of his CPD online as required.

11. The rules on continuing professional development exist to assure the public that when dealing with a member of RICS, that person has the requisite competence and professional standing to serve their needs. As such, it is an important component of the system of regulation of members. Repeated breaches of the CPD requirements are to be deplored and, as the Sanctions Guidance recognises, are apt to be considered very seriously by the profession as a whole.

12. However, the Appeals Panel noted that this was not a case where there had been no attempt at all to undertake CPD, although it had not been recorded. Mr Reid had in fact undertaken CPD in accordance with Rule 6 and further his CPD activity was spread out throughout 2015. The Panel noted Mr Reid's remorse for his conduct, his apology to the Panel today and his assurance that he would comply diligently with the CPD requirements in future.

13. While the decision of the Disciplinary Panel was understandable in view of the information available to it, the Appeal Panel had the benefit of Mr Reid's evidence to it today. In light of his sincere explanation of his change of attitude, the insight this demonstrated, his assurances about his intention to remain compliant and his otherwise unblemished career history, the Panel felt it would not be in the public interest or the interests of RICS to deprive the public of his experience.

14. The Panel was reassured that the public was not at risk due to a general failure to complete CPD, albeit Mr Reid's failure to record CPD had deprived RICS of the opportunity to monitor his compliance and thereby fulfil its regulatory role. The Panel noted that although he had not recorded it by the RICS deadline, he had in fact carried out a broad range of CPD activity over the course of 2015 amounting to 31 hours. He had continued his recording in 2016 and prior to his expulsion from membership had achieved the required 20 hours. It appeared to the Panel that Mr Reid had undoubtedly, though not before time, learned his lesson. The penalty of expulsion was not proportionate in the full circumstances of Mr Reid's case.

15. The Panel therefore determined to quash the decision of the Disciplinary Panel to expel Mr Reid from membership of RICS. It nonetheless determined that a sanction was appropriate to reflect the seriousness of Mr Reid's repeated failures to comply with RICS' CPD requirements. The Panel considered the range of sanctions available to it, starting with the least severe. The Panel was of the view that a further caution was inadequate to mark the seriousness of the admitted breach. It therefore determined to impose the following sanctions:

- Reprimand
- Fine of £2,500.
- A condition on Mr Reid's continuing membership of RICS as follows:

Mr Reid shall ensure that he has complied with RICS' requirements for CPD for 2016 and 2017 by 31 January 2017 and 31 January 2018 respectively and if in default shall be automatically expelled from membership.

## **Determination on Publication and Costs**

### **Publication**

15. The Panel directs publication in accordance with Supplement 3 to the Sanctions policy. This decision will be published on the RICS website, in the RICS magazine Modus but not in a local newspaper.

### **Costs**

16. The Panel makes no order for costs.



