

## **Disciplinary Panel Hearing**

### **Case of**

**Mr Gavin Mantle [6664761]  
London, E8**

### **On**

Wednesday 13 February 2019 and Monday 29 July 2019

**At 55 Colmore Row, Birmingham, B3 2AA**

### **Panel**

Angela Brown (Lay Chair)  
Jonathan Green (Lay Member)  
Paul Watkinson (Surveyor Member)

### **Legal Assessor**

Peter Steel

### **Representatives for the parties**

Christopher Geering (Counsel) appeared on behalf of RICS

Mr. Mantle appeared in person

### **Hearing Officer**

Maria Choudhury

The formal charge against Mr Mantle is:

1. He submitted two Assessment of Professional Competence Submissions and:
  - a. In either or both of the submissions he wrongly recorded dates of training he purported to have undertaken, as set out in one or more of the entries of Schedule 1,
  - b. In either or both of the submissions he wrongly claimed to have done training he had not in fact completed, as set out in one or more of the entries of Schedule 1,

- c. His conduct as set out at 1 a. and/or 1 b. was dishonest in that he provided information to RICS which he knew was inaccurate,
- d. In the alternative, his conduct as set out at 1 a. and/or 1 b. lacked integrity in that he was reckless as to whether the information submitted was accurate.

Contrary to Rule 3 of the Rules of Conduct for Members 2007 and Mr Mantle is therefore liable to disciplinary action under RICS Bye-law 5.2.2(a) or (c)

Schedule 1

<b>Training</b>	<b>Date: 2016 submission</b>	<b>Date: 2017 submission</b>
NEC3 Workshop	4 December 2013	4 June 2017
RICS Matrics	2 April 2014	17 February 2017
HSE Regulations Course	9 April 2014	9 February 2017
Train and Signalling Operation Course	10 April 2014	3 February 2017
TFL APC Forum – Contract Practice	30 May 2014	30 January 2017
NEC3 Intermediate Training Course	14 July 2014	26 February 2017
TFL APC Forum – Project Financial Control & Reporting	25 July 2014	25 February 2017
What the Regulator Expects Seminar	28 July 2014	18 February 2017
Supplier Quality Assurance Training	4 September 2014	4 February 2017
Unexpected Ground Conditions Forum	28 November 2014	28 January 2017
Change Control Forum	16 December 2015	16 January 2017
Vauxhall Station Upgrade visit	16 January 2015	12 January 2017

## Response

1. Mr. Mantle had returned the standard Listing Questionnaire in which he indicated that he admitted charges 1 a. and 1 d. but denied charges 1. b. and 1 c.. At the hearing, Mr Mantle indicated that he in fact denied all the allegations.

## Background

2. Mr Mantle joined RICS on 23 February 2016 as a trainee. On 28 November 2016, Mr. Mantle sent in an Assessment of Professional Competence Submission. This included a log of CPD activities, which was supposed to include CPD from the last 12 months. In fact Mr. Mantle's CPD log began in 2013.
3. On 7 February 2017 RICS informed him that his submission had not been successful. In feedback RICS noted that the CPD log was poor and contained only 20.5 hours of relevant CPD within the prescribed 12-month time period.
4. On 6 November 2017 Mr Mantle submitted a new application. On 16 January 2018, RICS Regulation received a referral from the RICS Assessment team, alleging Mr Mantle's second submission contained a CPD log with many of the same activities listed in it as in the first submission, save that the dates had been altered.
5. The submissions each contained a signed declaration which begins:

*"I have read the applicant, or candidate guide, and declare that I have completed my submissions documents in line with the requirements. I have met the competencies and levels as required."*

6. It contained the following identical entries:
  - a. A "structured learning" activity described a "Full day NEC3 workshop to investigate the amendments made by TfL to the standard forms". The first submission dates this course as 4 December 2013, the second as 4 June 2017.
  - b. A "RICS Matrics" activity described as "RICS Matrics on Delay Assessment to increase knowledge". The first submission dates this course as taking place on 2 April 2014, the second on 17 February 2017.
  - c. A "Classroom Training" activity "covering station specific HSE information and fire regulations during TFL ambassador training". The first submission dates this as 9 April 2014, the second as 9 February 2017.

- d. A “Classroom Training” activity “covering platform based training operations and the operational workings of the different signalling apparatus and systems used within LU”. The first submission dates it as 10 April 2014, the second as 3 February 2017.
  - e. An “Organised Learning” activity where he “attended contract Practice presentation and discussion forum, discussed the use of various forms of contract”. The first submission dated this as 13 May 2014, the second as 30 January 2017.
  - f. A “Classroom Training” activity where he “attended training courses covering programme, evaluation of CE’s, the role of the project manager and the importance of early warnings and Z clauses.” The first submission dates this as 14 July 2014, the second as 26 February 2017.
  - g. An “Organised Learning” activity where he “created and carried out presentation on Project Financial Control & Reporting”. The first submission dates this training as 25 July 2014, the second as 18 February 2017.
  - h. A “Seminar” activity where he “attended presentation on the various regulatory organisations dealing with the underground”. The first submission dated the training as taking place on 28 July 2014, the second as 18 February 2017.
  - i. A “Classroom Training” activity “on the new SQA system being introduced to all procurement activities to reduce risk of supplier failure”. The first submission dates this as 4 September 2014, the second as 4 February 2017.
  - j. An “Organised Learning” activity where he “received a presentation by Contractor on the Unexpected Ground Conditions encountered on the bridge replacement site”. The first submission dates this as 28 November 2014, the second is 28 January 2017.
  - k. An “Organised Learning” activity where he “received a presentation by Contractor on the Change Control Mechanisms within NEC3 contracts”. The first submission dates this as 16 December 2014, the second as 16 January 2017.
  - l. A “Work based learning” activity regarding the “Vauxhall Station Upgrade Site Visit”. The first submission dates this as 16 January 2015, the second is 12 January 2017.
7. On 5 February 2018 RICS wrote to Mr Mantle asking why he appeared to have taken certain CPD activities twice and requesting documentation to support the dates the CPD was taken.

8. On 12 February 2018 Mr Mantle spoke to RICS. He was asked about his CPD records and he stated he did not see the point in keeping these. He sent a follow-up email shortly afterwards in which he stated:

*“Regarding my CPD I may need more details about the dates in question, however the first submission contained a few typos as noted in my original feedback”.*

9. RICS responded to this email the same day asking him to look at the highlighted areas of the two forms sent to him and explain why there appeared to be duplication.
10. On 26 February 2018 RICS wrote to Mr. Mantle again reminding him of his duty to cooperate. It cited eight instances where he appeared to have attended external training or events twice. It also informed Mr. Mantle that RICS records indicated that no RICS Matrics event had taken place on 17 February 2017 and since Mr. Mantle was not a RICS member in 2014, he would not have been able to attend RICS training on that date in any event. It asked him to explain if the information was accurate, and if not to explain the reason for the inaccuracies.
11. On 28 February 2018 Mr Mantle spoke to RICS by telephone. He was told RICS needed his response to the referral in order to consider if there was sufficient evidence of a breach of his professional obligations. He provided an email response the same day. He stated:

*“I am disappointed that after years of hard work my RICS studies has arrived at point (sic). I can assure you that it was not my intention from my RICS journey to involve yourselves however through my lack of diligence it has.”*

12. The email continued:

*“...the information provided in relation to the training courses was “not 100% accurate, I sincerely apologise for this...In relation to the discrepancies highlighted the letter (sic);*

- The external training dates provided in my original submission were rushed and inaccurate. I estimated the dates in as the reviewer stated in his feedback, the CPD was rushed and longer than the 12 month duration it needed to be.*
- Regarding the RICS Matrics Seminar – it appears that I have incorrectly logged this seminar.*
- Regarding your third point. My role at Network Rail started in 2016. I worked with Network rail as a client in 2015 while working for London Underground so there may have been training and knowledge sharing involved, however I can see your point that this has not been recorded accurately. ”*

13. Mr Mantle went on to add by way of further explanation:

*“The inaccurate information has been provided because I have made a note in the notebook, but recorded dates inaccurately as part of my original CPD submission using estimate dates. I have had a tough year personally with the death of a close family*

*member and work stress. I feel this has affected my due diligence with my learning and development.”*

14. In an email to RICS dated 20 March 2018 Mr Mantle provided contact details and addresses for the course providers or others who could confirm his attendance at the relevant courses. These included the details of a Mr. Clive Newman who said could confirm attendance at the informal “Ground Conditions Forum”, the Vauxhall Station site visit and the “Change Control Forum”.
15. RICS contacted the training provider for the “TfL APC Forum – Project Financial Control” events which Mr Mantle had said he had attended on 25 July 2014 and 25 February 2017. In response RICS received an email which indicated that the organiser could not confirm attendance at either of these courses. It went on to add that Mr Mantle had worked for TfL between May 2015 and July 2016. The dates of the courses in question were either before or after his time with TfL. RICS spoke to Mr Newman. He confirmed Mr Mantle had attended the two forums and site visit. He was asked if he could provide confirmation of attendance by email. He did not do so at that time at the hearing Mr Mantle provided the Panel with an email from Mr Newman dated 11 February 2019 in which he wrote:

*“Gavin,*

*I can confirm that you attended the following:*

*6. Ground Conditions Forum, on 28/11/14 and again 28/01/17*

*7. Vauxhall Station Upgrade Site Visit on 16/01/15 again 12/01/17*

*8. Change Control Forum on 16/12/15 again 16/01/17.*

*Best regards”*

## **Hearing**

16. RICS relied on the statement of Katy Kinsella dated 26 September 2018, which attached the relevant correspondence, emails, telephone notes and Mr. Mantle’s APC submissions as proof of the allegations.
17. Mr. Mantle supplied the Panel with the email from Mr. Newman referred to above and gave evidence on his own behalf.

## **Submissions on behalf of RICS and evidence of Mr. Mantle**

18. Mr. Geering submitted on behalf of RICS that despite the evidence from Mr. Newman, which apparently confirmed Mr. Mantle's attendance at some of the claimed CPD events (namely the "Ground Conditions Forum", on 28/11/14 and 28/01/17; the "Vauxhall Station Upgrade Site Visit" on 16/01/15 and 12/01/17; and the "Change Control Forum" on 16/12/15 and 16/01/17), there was still compelling evidence that the dates of some instances of the claimed training were wrongly recorded on the two APC submissions; and that Mr Mantle had not in fact done the training he had claimed to have undertaken in some of those instances.
19. Both Mr. Mantle's 2016 and 2017 APC Submissions claimed attendance at a number of training events associated with TfL. The 2016 submission dated these events as taking place between April and September 2014; and the 2017 submission in January and February 2017. As the training provider for TfL had confirmed, these dates were either before or after Mr. Mantle had worked for TfL.
20. Mr. Geering suggested that the RICS Matrics training recorded in both submissions was an even more obvious example of a false claim to training that Mr. Mantle could not have attended. He was not a RICS member on 2 April 2014, so could not have attended such training on that date; nor did his name appear on the list of attendees. According to RICS' records, there was no such training event on 17 February 2017.
21. RICS also relied on the fact that there was no evidence in respect of any CPD activities save the 6 events confirmed by Mr. Newman, as well as Mr. Mantle's apparent admission during a telephone call to RICS that he had not done some of the training. His explanation of the discrepancies had changed over time, moving from the suggestion that the first submission contained "*a few typos*" to the assertion in Mr. Mantle's email of 25 January 2019 that he had in fact done some of the same training twice.
22. In his evidence to the Panel, Mr. Mantle described the events surrounding his APC submissions in 2016 and 2017. He had submitted the first APC document in November 2016. It was marked and he was disappointed with some of the comments he received. He therefore asked for a new panel to consider the revised submission he submitted in 2017.
23. Reviewing matters now, Mr. Mantle said that his main concern were the entries relating to the RICS Matrics event, which he accepted he had not attended. He told the Panel that he had "*got that wrong*". Mr. Mantle said that at the time he was under some personal stress, as his mother had died during this period.
24. Under cross examination, Mr. Mantle disputed that his explanations had changed over time. He told the Panel that the telephone note suggesting that he had refused to respond to the RICS Rule 5 letter was inaccurate. Whoever Mr. Mantle had spoken to had misinterpreted, what he said. This was also the case with the telephone note which



suggested he had admitted not attending some of the claimed training events. As to the email he had sent RICS on 28 February 2018 (in which he accepted that information provided to RICS about the training courses was not 100% accurate), this was not inconsistent. Mr. Mantle accepted that the dates he had provided in his original submission were rushed and inaccurate.

25. Mr. Mantle denied that he was lying in his explanation to the Panel and had changed his story. He said that this was in reality the first time he had the chance to respond to the allegation that he had simply duplicated the entries from one submission to the other. He said that he had in fact done training on these dates. Mr. Mantle did not accept that he had deliberately set out to mislead RICS in the APC submissions. He believed the submissions were accurate at the time, though he accepted that he had got some of the dates wrong.

## Findings of Fact

26. The Panel accepted the advice of the legal assessor. It bore in mind that the burden of proof was on RICS at all times and that the standard of proof was the balance of probabilities. Having carefully considered all the evidence, the Panel found as follows:

1. He submitted two Assessment of Professional Competence Submissions and:
  - a. In either or both of the submissions he wrongly recorded dates of training he purported to have undertaken, as set out in one or more of the entries of Schedule 1,

27. **Proved.** Mr Mantle accepted in his evidence that he had never attended any RICS training events. He could not have attended the RICS Matrics event on 2 April 2014 because he was not a RICS trainee member or APC candidate at the time, nor did his name feature on the list of attendees.

28. There was no record of a RICS Matrics event on 17 February 2017. The Panel considered that Mr Mantle could not have been mistaken about the nature of the events that he claimed to have attended on those dates, i.e. that he attended other events and believed them to be RICS Matrics events. It therefore found that he had wrongly recorded the dates of this training in both the 2016 and 2017 APC submissions. Indeed, he had accepted as such in one of his earlier explanations to RICS set out in his email of 28 February 2018.

- b. In either or both of the submissions he wrongly claimed to have done training he had not in fact completed, as set out in one or more of the entries of Schedule 1,



29. **Proved.** The Panel found Mr Mantle had wrongly claimed to have done training he had not in fact completed in respect of the RICS Matrics training (for the reasons set out previously) and in respect of the three events which Mr Mantle had accepted in his email to RICS of 25 January 2019 were recorded inaccurately in his APC submissions (namely the “TFL APC Forum – Contract Practice”; the “TFL APC Forum – Project Financial Control & Reporting” and the “What the Regulator Expects Seminar” in respect of which he had stated “*Title of the course recorded incorrectly*”).

c. *His conduct as set out at 1 a. and/or 1 b. was dishonest in that he provided information to RICS which he knew was inaccurate.*

30. **Proved.** The Panel found that Mr Mantle had knowingly submitted inaccurate information to his regulator in the 2016 and 2017 APC submissions. He had signed a declaration on both submissions to confirm that he had complied with the relevant guidelines, which, as would be expected, included a requirement that the content was accurate. The Panel considered that Mr Mantle could not have been in any doubt that, in describing the purpose of the RICS Matrics training in the entries dated 2 April 2014 in the 2016 APC submission and 17 February 2017 in the 2017 APC submission as “*Attended RICS Matrics on Delay Assessment to improve knowledge*”, he was claiming that the training was associated with or sponsored by RICS. For the reasons set out previously, he could not reasonably have thought otherwise. Similarly, in respect of the three training events which Mr Mantle accepted he had recorded inaccurately on the submissions, it is implausible that he did not recognise this at the time. He told the Panel that he had kept notes and a log book in which he had recorded the details contemporaneously, although he had not produced this to RICS or the Panel as he thought it was not relevant.

31. The Panel was reinforced in its view that Mr Mantle knowingly submitted inaccurate information in his submissions by the changing nature of his explanation after RICS brought these matters to his attention. He first suggested that the discrepancies were down to typos. He then explained them as being due to his inaccurately estimating the dates. In front of the Panel, he said that the dates were in fact accurate and he had attended training on all the dates set out in his two submissions, albeit he had got the names of some of the courses wrong. The Panel considered that these positions could not all be true, nor were these responses consistent with his claim that he had believed his submissions were accurate at the time. Overall, the Panel considered his evidence lacked credibility when weighed against that contained in the documents presented to it.

d. *In the alternative, his conduct as set out at 1 a. and/or 1 b. lacked integrity in that he was reckless as to whether the information submitted was accurate.*

32. As this allegation was expressed in the alternative to 1.c. and the Panel had found 1.c. proved, the Panel was not required to make any finding.

### **Liability to Disciplinary Action**

33. The Panel listened carefully to the submissions by Mr. Geering on behalf of RICS and by Mr. Mantle. Mr. Geering submitted that the Panel's findings made Mr. Mantle liable to disciplinary action under both Bye-Law 5.2.2(a) (as being conduct liable to bring RICS into disrepute); and Bye-Law 5.2.2(c) (because of the proven breaches of the Regulations, Bye-Laws and Rules of RICS). The APC process was dependent on trust in the honesty and accuracy of the submissions of candidates. Mr. Geering said that dishonesty in an APC application undermined confidence in the RICS qualification and brought RICS into disrepute.

34. Mr. Mantle said that he was sorry for and had apologised for the inaccuracy of the training dates in his APC submission. He said that he did not knowingly act dishonestly. Mr. Mantle added that he had explained how this had happened and had cooperated with RICS throughout.

35. The Panel accepted the advice of the legal assessor. The Panel was of the view that any finding of dishonesty against a member must be regarded as exceptionally serious. The fact that the dishonesty was in connection with an APC application was not only a breach of RICS' Rules of Conduct, but also had the potential to bring RICS into disrepute.

36. Accordingly, the Panel was satisfied that Mr. Mantle was liable to disciplinary action under both Bye-Laws 5.2.2(a) and 5.2.2(c).

### **Sanction**

#### Panel's Approach

37. The Panel again took into account the submissions of Mr. Geering on behalf of RICS and those of Mr. Mantle. It accepted the advice of the legal assessor and had regard to the RICS Sanctions Policy.

38. The Panel bore 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.

#### Decision

39. The Panel took into account Mr. Mantle's submissions in mitigation. It accepted that he had been under some strain at the time these matters first came to RICS' notice, as a result of a bereavement. He also mentioned current health issues, but did not provide any medical or other evidence to support this assertion. The Panel also noted that he had cooperated with RICS during the disciplinary process. Mr. Mantle did not provide any testimonials or other character evidence, despite the fact he had had considerable notice of the need to do so in advance of the resumed hearing. The Panel nonetheless accepted that he was of good character and had no previous disciplinary record.
40. The Panel considered that the following aggravating factors were present in this case:
- Mr Mantle had demonstrated a number of instances of dishonesty towards his regulator in connection with an application for the RICS qualification;
  - This dishonesty had involved an element of planning and premeditation and occurred over a considerable period of time; and
  - Mr. Mantle had, despite his submissions to the contrary, demonstrated little insight into his conduct. Despite his apology for his conduct, he had described the deliberate submission of inaccurate details in his APC application as "an error" and had continued to advance ingenuous and incredible explanations for that error in his oral evidence to the Panel.
41. The Panel again considered that dishonesty in these circumstances was exceptionally serious. It was axiomatic that members or those aspiring to membership should be honest and straightforward at all times when dealing with RICS. Failure to do so undermined RICS' status as regulator of the profession. False statements in an application for the RICS qualification showed a particular disregard for the professional values that are the hallmark of RICS membership.
42. The Panel first considered whether it was appropriate to impose any sanction at all. As noted above, the Panel concluded that the repeated dishonesty demonstrated by its findings in this case were obviously serious. Imposing no sanction would be neither proportionate nor appropriate.
43. The Panel went on to consider whether to impose a caution. The Panel concluded that a caution would not adequately reflect the seriousness of the case. The Panel also considered the imposition of a reprimand, but concluded that similarly this did not reflect the seriousness of Mr. Mantle's repeated dishonesty towards his regulator, which reflected a complete disregard of appropriate professional standards.
44. The Panel also concluded that it would not be appropriate or workable to impose an undertaking given that it was a fundamental requirement of membership of RICS that members should act with honesty and integrity. It would serve no purpose for Mr. Mantle to undertake to be honest in the future in these circumstances.

45. The Panel then considered whether to impose a fine. It decided that a fine would not be an appropriate sanction. Mr. Mantle's repeated failure to comprehend his professional responsibilities and his lack of insight into the gravity of his conduct were simply unacceptable for someone who wished to remain part of a respected profession.
46. For similar reasons, the Panel considered and dismissed the imposition of a condition on Mr Mantle's continuing membership as an adequate response to the misconduct demonstrated by this case. Again, it noted that Mr. Mantle was required to be honest in any event and it was not clear what purpose it might serve to impose a condition relating to his future honesty.
47. The Panel took into account paragraph 20.1. of the Sanctions Policy, which states that in the absence of extenuating circumstances instances of fraud, dishonesty or lack of integrity are likely to result in expulsion. Given the lack of any proper explanation from Mr. Mantle as to the reasons for his misconduct, the lack of any testimonials or other evidence to suggest he understood his professional responsibilities and the lack of any insight, the Panel considered there was no good reason in this case to depart from the Sanctions Policy. Having carefully considered all the information before it, the Panel concluded that the only appropriate sanction in this case was expulsion. It therefore ordered that Mr Mantle be expelled from membership of RICS.

## **Publication**

48. The Panel has considered the policy on publication of decisions, The Sanctions Policy Supplement 3 - Publication of Regulatory Disciplinary Matters. The Panel was unable to identify any reason to depart from the presumption that decisions will be published on the RICS website and in the RICS magazine Modus.

## **Costs**

49. RICS applied for costs in the sum of £9,478.50.
50. The Panel considered carefully the issue of costs. The costs figure represents a contribution towards the costs incurred by RICS in preparation for the hearing and the hearing itself. The Panel had no reason to doubt that the amount claimed was fair and reasonable.
51. The Panel concluded that it was appropriate for Mr Mantle to make a contribution towards the costs of bringing this case, otherwise the full cost of these proceedings would fall on the profession as a whole. However, taking into account Mr Mantle's statement of means

and his ability to pay any costs award, it decided that this contribution should be in the sum of £4,750.

52. The Panel therefore orders that Mr Mantle pays to RICS costs in the sum of £4,750.

### **Appeal Period**

53. Mr Mantle has 28 days, from the service of the notification of the decision, to appeal this decision in accordance with Rule 59 of the Rules.

54. In accordance with Rule 60 of the Disciplinary, Registration and Appeal Panel Rules, the Honorary Secretary of RICS has 28 days, from the service of the notification of the decision, to require a review of this Decision.