

ROYAL INSTITUTION OF CHARTERED SURVEYORS

DISCIPLINARY PANEL HEARING BY WAY OF WRITTEN REPRESENTATIONS

Case of

Paul Hine MRICS [0084419]

Warrington, WA4

On

Wednesday 27 April 2016

Via telephone conference

Panel

Helen Riley (Member Chair)

Chris Boothman (Lay Member)

CHARGE HEARD

The Panel considered the following:

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 of Conduct for Members 2007 version 6.**"

DETERMINATION

1. Service

By Rule 23 notice of a hearing must be given by "special post". In the Disciplinary Registration and Appeal Panel Rules the definition of special post is "special post means a method of delivery by which delivery of the post can be confirmed". "Post" is not a defined term.

Notice of this hearing was posted by email, special delivery and first class post, and such notice complies with the Rules. The service of the notice was evidenced by a signed copy of a Royal Mail proof of delivery form at 12.37pm on 22 March 2016.

The Panel noted that the Relevant Person had responded to the notice in the Listing Questionnaire dated 2 April 2016, giving such submissions as he wished the Panel to consider and indicated that he would not be attending the hearing and did not ask for an adjournment. The Relevant Person had not asked for an oral hearing, and so consented to a paper hearing.

The Panel decided that it was appropriate to proceed with a paper hearing.

2. The burden of proof is on RICS and the standard of proof is the balance of probabilities.

Findings of fact

3. From January 2013 RICS members were obliged to complete 20 hours CPD activity by 31 December of each calendar year.
4. Rule 6 provides: “Members shall comply with RICS requirements in respect of continuing professional development.”
5. CPD requirements for members are: –
 - Of the 20 hours at least 10 hours must be formal 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.
6. The online CPD record was attached to the charge. It is a matter of record. The record for the Relevant Person for the calendar year 2015 does not show 20 hours CPD recorded. There are no submissions from the Relevant Person that the record is inaccurate.
7. In the Listing Questionnaire signed and dated 2 April 2016, the Relevant Person admitted the charge.
8. Accordingly the Panel finds the allegation proved.

Sanction

9. The Panel next considered sanction. The RICS rules about CPD require members to undertake and to record online 20 hours CPD each year. For those who failed to comply with that rule, the sanction imposed was a caution. For those who failed to comply for a second year the sanction was a further caution and a penalty of £150. This is the third year of compulsory recording of CPD online. The Relevant Person is charged with failing to record CPD for the calendar year 2015, and had received the

two cautions and paid the fine of £250 imposed last year (originally £150 but increased to £250 due to late payment).

10. From the inception of the compulsory recording of CPD online RICS has publicised its policy on sanctions for non-compliance. For a third failure the Sanctions Policy at paragraph 22 indicated that expulsion was the likely sanction.
11. The explanation offered by the Relevant Person was that he had undertaken CPD activities during 2015 and he provided detailed documentary evidence to back up this claim. He said these had been retrospectively loaded onto the RICS online system and he produced a printout showing 35 hours of CPD activity. However these hours did not appear on the CPD online summary provided by RICS, which only showed two hours recorded in 2014. The Relevant Person had three years and one month to record his CPD activities. Indeed RICS sent numerous reminders by email, post and telephone. The Relevant Person must have been aware of the CPD requirements as, for example, he responded to an email from RICS on this matter on 4 April 2014 and paid the fixed penalty fine for non-compliance on 29 May 2015.
12. However, the Panel considered that the Relevant Person has shown a genuine willingness, albeit very late, to comply and cooperate with RICS. In view of this and the full CPD evidence produced, the Panel decided expulsion would be disproportionate and unfair and therefore decided to give the Relevant Person one final chance. The Panel therefore directed that the Relevant Person pay a fine of £350 and that he must comply with the requirement to undertake and record 20 hours of CPD online for 2016 by 31 December 2016. Failure to comply with this requirement will result in his automatic expulsion from membership of RICS without further recourse.

Publication

13. The Panel has considered the policy on publication of decisions, The Sanctions Policy Supplement 3 - Publication of Regulatory Disciplinary Matters. This decision will be published on RICS' website, in RICS' magazine Modus, but not in a local newspaper.

Costs

14. RICS asked for costs of £600, the standard charge for a paper hearing. This is a straightforward matter, and the standard fee is in excess of what may realistically be expected to be the costs incurred in bringing the charge. The Panel orders that the Relevant Person pay costs of £100.

Appeal Period

15. The Relevant Person has 28 days, from the service of the notification of the decision, to appeal this decision in accordance with Rule 59 of the Disciplinary, Registration and Appeal Panel Rules.
16. 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.