

ROYAL INSTITUTION OF CHARTERED SURVEYORS

DISCIPLINARY PANEL HEARING BY WAY OF WRITTEN REPRESENTATIONS

Case of

Simon Walker MRICS [0086253]
Epsom, Surrey, KT18

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 12.43pm on 22 March 2016.

The Panel noted that the Relevant Person had responded to the notice in the Listing Questionnaire dated 10 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 dated 10 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 £150 imposed last year.

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. In his letter dated 10 April 2016, the Relevant Person said he could not defend the charge but referred to difficult personal circumstances during 2014 and 2015. He submitted that these were not valid reasons and that they were not put forward as a defence as to why he failed to meet the requirements of Rule 6 but that they were “merely an explanation” of his situation. The Relevant Person expressed regret. In previous correspondence, contained in the bundle, the Panel noted a letter dated 22 March 2015 from the Relevant Person in which he said he was aware he had not complied with his CPD requirements and explained his circumstances but he said he would make sure his CPD requirements would be fulfilled in 2015. This did not happen. RICS reminded the Relevant Person of the CPD requirements, evidenced in the bundle, and it was noted that these reminders were by letter as the Relevant Person did not appear to have a contact telephone number or email address.
12. The Panel decided that the Relevant Person had put forward exceptional personal reasons for his failure to complete his CPD in 2015. It was also clear in his submissions that he understood and accepted the potential consequences of his failure. The Panel decided this amounted to sufficient mitigation to deviate from paragraph 22 in the Sanctions Policy and therefore the Panel decided not to expel the Relevant Person from membership of RICS with immediate effect.
13. The Panel directed, however, that the Relevant Person must comply with the requirement to undertake and record 20 hours of CPD for 2016 by 31 December 2016. Failure to do so will result in his automatic expulsion from membership of RICS without further recourse.

Publication

14. 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

15. 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

16. 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.
17. 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.