

ROYAL INSTITUTION OF CHARTERED SURVEYORS

DISCIPLINARY PANEL HEARING BY WAY OF WRITTEN REPRESENTATIONS

Case of

Stephen Fitzpatrick MRICS [1129020]
Newry, County Down, BT34

On

Monday 25 April 2016

Via telephone conference

Panel

Paul Housego (Lay Chair)
Ian Hastie (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 and proceeding in absence

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 sent by email to the email address notified by the Relevant Person to RICS.

The notice of the hearing was posted by email, and such notice complies with the Rules. The service of the notice was evidenced by a copy of the email, correctly addressed to

the address given by the Relevant Person, and by a printout from the sending email account stating that the email had been delivered to that address.

The Panel noted that the Relevant Person had responded to the email, 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. He admitted the allegation.

7. Accordingly the Panel finds the allegation proved both on the evidence and by reason of the admission of the Relevant Person.

Sanction

8. 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.

9. 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 and 23 indicated that expulsion was the likely sanction.
10. In his email of 06 April 2013 the Relevant Person accepted that he had not fulfilled the full requirement, pointing out that RICS accepted that he had recorded 14 hours of CPD in 2015. He quoted pressures of work as a sole proprietor and geographical difficulties in accessing CPD events.
11. The Relevant Person expressed his sincere remorse for this omission, his pride and commitment to his RICS membership, and the necessity of CPD compliance to maintain the professionalism and ethical standards of RICS. He was fully aware of the seriousness of his breach and offered an unreserved apology.
12. The Relevant Person stated that he has now purchased a CPD Foundation subscription and undertakes to complete the outstanding CPD record.
13. The Relevant Person accepted that RICS is a professional membership organisation. It 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.
14. The Panel decided that the Relevant Person had accepted that this regulatory process had taught him a salutary lesson and a stark reminder of his responsibilities. The Panel considered that the Relevant Person would in future comply with his obligations in this regard.
15. After considering the Sanctions Guidance the Panel decided to allow the Relevant Person to keep his membership and reprimanded him and imposed a fine of £1,000.

Publication

16. The Panel 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

17. 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 £200.

Appeal Period

18. 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.

19. 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.