

SINGLE MEMBER OF REGULATORY TRIBUNAL

DECISION SHEET

RICS Regulatory Tribunal Rules 2022

Part VI, Regulatory Tribunal Single Member Decision

Regulated Member: Mr Alan Chapman (6631459)

Single Member Decision of: Glenn Mathieson

Case Number: REG0000047523

Date of Decision: 4 November 2024

Allegation

‘On 15 August 2022 at The Royal Court of the Island of Guernsey, you were convicted of failing to disclose information; contrary to Sections 46 and 4991) of the Regulation of Investigatory Powers (Bailiwick of Guernsey) Law, 2003.’

Alleged Rules Breach

RICS alleges that the Member’s actions are contrary to the Rules of Conduct for Members Version 2 with effect from 2 February 2022 and that, as a result, he is liable to disciplinary action under Byelaw 5.2.2(d).

Evidence Considered

In the course of my consideration of this matter, I have been provided with a bundle of material by RICS resulting from their investigation. This bundle includes:

- statements and evidence provided by RICS;
- correspondence between RICS and the Member concerned;

- Court documents confirming the fact of the Member's conviction for the offence which is the subject of the allegation;
- Representations made by the Member in response to the allegation being put to him;
- a letter of support provided on the Member's behalf by his employer.

Background

The Member is a student member of RICS, having originally enrolled in 2017, and is currently employed as a trainee/assistant Quantity Surveyor on the island of Guernsey. On 13 January 2021 the Member was arrested on suspicion of involvement in drug trafficking offences and possession of controlled drugs. In the course of the ensuing investigation, the Member was served with a Notice requiring him to provide information, namely, the passcode for his mobile phone. The Member refused to disclose the requested information.

Ultimately, the drugs related matters were not in themselves pursued. The Member was, however, prosecuted for the failure to disclose, an offence to which he pleaded guilty on 16 December 2021. The Member was sentenced to a term of 9 months' imprisonment.

The fact of the conviction was brought to the attention of RICS by the Member himself on 3 January 2024.

Findings of fact

In determining the facts of this case, I have relied on the evidence bundle provided by RICS. No other material relevant to this matter has been drawn to my attention. In accordance with Bye-law 5.2.2 (d), a Member may be liable to disciplinary action by reason of having been convicted of a criminal offence which could result in a custodial sentence. Accordingly, I have reviewed and carefully considered all of the material provided to me in the evidence bundle. Of particular note are the Court records and judge's sentencing remarks, which I consider to be adequate proof of the fact of the Member's conviction and sentence, and which, in any event, are not matters of dispute.

I therefore find that there are sufficient grounds to consider whether or not the Member is liable to disciplinary action under Bye-Law 5.2.2 (d).

Liability for Disciplinary Action

The Member has pleaded guilty to the offence in question, the seriousness of which is demonstrated by the fact of the imposition of a custodial sentence. Whilst I acknowledge that, for whatever reason, the drugs related matters were not ultimately pursued, it is nonetheless relevant to note that the Member's refusal to disclose took place in the context of a legitimate investigation into serious criminal offences. Additionally, and as referenced by the sentencing judge, the failure to disclose is indicative of the Member having 'something to hide', and therefore denotes a degree of deceptiveness.

I have disregarded the fact of the delay in the Member notifying RICS of his conviction, notwithstanding the expectation that was upon him to do so. This is due to the fact that his ultimate notification, albeit late, indicates that he was not seeking to hide the matter but, rather, may not have been fully conscious of his obligations. In any event, in comparison to the seriousness of the conviction itself, the delayed notification is relatively minor by contrast.

I note the fact that the Member has no previous or subsequent convictions, and I take into account the positive comments by his employer. Additionally, I recognise that the criminal courts have already dealt with matters and, in so doing, taken action which has doubtless had a significant impact upon the Member. I have therefore reminded myself that the RICS disciplinary process is not simply a mechanism by which to punish someone for a second time.

Nonetheless, I am also required to take into account the public interest, including the need to uphold the reputation of the profession. In the circumstances of this case, namely, the seriousness of the offence in question, I have come to the ultimate conclusion that the Member is liable to disciplinary action.

Regulatory Sanction

As previously stated, the Member's conviction is in respect of a serious offence and resulted in a custodial sentence. I recognise that the circumstances of the offence did not relate to the Member's professional activities, or were such as to cause harm to individuals. I do not, therefore, consider that this matter represents one which poses an ongoing risk to the public, and I have no cause to consider that there is a risk of repetition. Nonetheless, I have taken careful note of the relevant Guidance which is clear as to the sanction which is appropriate in these circumstances. In considering all of the relevant material, I have concluded that expulsion from student membership is both proportionate and appropriate, as continued membership would be incompatible

with the public interest and, in particular, the maintenance of trust in, and the reputation of, the profession.

Order Made

I therefore make the following order: that the Member be expelled from student membership of the RICS.

Taking Effect of Order

This Order will take effect 14 days from service of the Single Member's decision upon the Regulated Member, unless notification in writing is received in writing from the Regulated Member or RICS stating that they consider that the findings and/or the Regulatory Sanction imposed by the Single Member are wrong.

Costs

I make the following order in respect to costs: that the Member shall pay to RICS the sum of £650.00.

Publication

The Single Member's Record of Decision will be published following the expiry of 14 days from service of the Single Member's decision upon the Regulated Member.